

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2024

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 001-35972

**BRAEMAR HOTELS & RESORTS INC.**

(Exact name of registrant as specified in its charter)

Maryland

46-2488594

(State or other jurisdiction of incorporation or organization)

(IRS employer identification number)

14185 Dallas Parkway

Suite 1200

Dallas

Texas

75254

(Address of principal executive offices)

(Zip code)

(972) 490-9600

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.  Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).  Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "small reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  Yes  No

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	BHR	New York Stock Exchange
Preferred Stock, Series B	BHR-PB	New York Stock Exchange
Preferred Stock, Series D	BHR-PD	New York Stock Exchange

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Common Stock, \$0.01 par value per share (Class)	66,522,206
Outstanding at August 6, 2024	

BRAEMAR HOTELS & RESORTS INC.  
FORM 10-Q  
FOR THE QUARTER ENDED JUNE 30, 2024

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**PART I. FINANCIAL INFORMATION**

**ITEM 1. FINANCIAL STATEMENTS (unaudited)**

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(unaudited, in thousands, except share and per share amounts)

	December 31,	
	June 30, 2024	2023
<b>ASSETS</b>		
Investments in hotel properties, gross	\$ 2,269,523	\$ 2,382,716
Accumulated depreciation	(469,885)	(498,508)
Investments in hotel properties, net	1,799,638	1,884,208
Cash and cash equivalents	114,607	85,599
Restricted cash	52,339	80,904
Accounts receivable, net of allowance of \$201 and \$237, respectively	32,412	39,199
Inventories	4,634	5,003
Prepaid expenses	4,929	9,938
Deferred costs, net	75	75
Investment in unconsolidated entity	1,540	1,674
Derivative assets	2,177	2,847
Operating lease right-of-use assets	34,317	78,383
Other assets	19,349	17,751
Intangible assets, net	3,314	3,504
Due from related parties, net	365	—
Due from third-party hotel managers	17,088	17,739
Assets held for sale	124,931	—
<b>Total assets</b>	<b>\$ 2,211,715</b>	<b>\$ 2,226,824</b>
<b>LIABILITIES AND EQUITY</b>		
Liabilities:		
Indebtedness, net	\$ 1,128,439	\$ 1,162,444
Accounts payable and accrued expenses	129,667	149,867
Dividends and distributions payable	9,333	9,158
Due to Ashford Inc.	2,571	1,471
Due to related parties, net	—	603
Due to third-party hotel managers	674	1,608
Operating lease liabilities	19,110	60,379
Other liabilities	23,740	22,756
Derivative liabilities	—	12
Liabilities associated with assets held for sale	113,460	—
<b>Total liabilities</b>	<b>1,426,994</b>	<b>1,408,298</b>
Commitments and contingencies (note 15)		
5.50% Series B cumulative convertible preferred stock, \$0.01 par value, 3,078,017 shares issued and outstanding at June 30, 2024 and December 31, 2023, respectively	65,426	65,426
Series E redeemable preferred stock, \$0.01 par value, 16,142,351 and 16,316,315 shares issued and outstanding at June 30, 2024 and December 31, 2023, respectively	374,847	377,035
Series M redeemable preferred stock, \$0.01 par value, 1,622,773 and 1,832,805 shares issued and outstanding at June 30, 2024 and December 31, 2023, respectively	40,569	45,623
Redeemable noncontrolling interests in operating partnership	31,579	32,395
Equity:		
Preferred stock, \$0.01 par value, 80,000,000 shares authorized:		
8.25% Series D cumulative preferred stock, 1,600,000 shares issued and outstanding at June 30, 2024 and December 31, 2023	16	16
Common stock, \$0.01 par value, 250,000,000 shares authorized, 66,522,206 and 66,636,353 shares issued and outstanding at June 30, 2024 and December 31, 2023, respectively	665	666
Additional paid-in capital	718,901	718,498
Accumulated deficit	(437,302)	(412,199)
<b>Total stockholders' equity of the Company</b>	<b>282,280</b>	<b>306,981</b>
Noncontrolling interest in consolidated entities	(9,980)	(8,934)
<b>Total equity</b>	<b>272,300</b>	<b>298,047</b>
<b>Total liabilities and equity</b>	<b>\$ 2,211,715</b>	<b>\$ 2,226,824</b>

See Notes to Condensed Consolidated Financial Statements.



**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(unaudited, in thousands, except per share amounts)

	Three Months Ended June			
	30,		Six Months Ended June 30,	
	2024	2023	2024	2023
<b>REVENUE</b>				
Rooms	\$ 116,227	\$ 117,137	\$ 254,779	\$ 254,664
Food and beverage	47,563	47,776	101,110	100,004
Other	23,797	21,794	50,777	47,340
Total hotel revenue	187,587	186,707	406,666	402,008
<b>EXPENSES</b>				
Hotel operating expenses:				
Rooms	27,476	26,705	55,740	54,063
Food and beverage	36,664	36,365	77,381	76,104
Other expenses	58,155	56,297	118,231	118,592
Management fees	6,068	5,880	13,044	12,585
Total hotel operating expenses	128,363	125,247	264,396	261,344
Property taxes, insurance and other	10,058	9,396	20,755	17,512
Depreciation and amortization	24,694	22,567	50,114	45,088
Advisory services fee	7,828	8,215	14,528	16,163
Corporate general and administrative	4,469	3,896	2,231	6,716
Total operating expenses	175,412	169,321	352,024	346,823
<b>OPERATING INCOME (LOSS)</b>				
Equity in earnings (loss) of unconsolidated entity	(85)	(75)	(134)	(148)
Interest income	1,072	2,295	1,868	4,403
Interest expense and amortization of discounts and loan costs	(27,285)	(23,600)	(53,776)	(46,473)
Write-off of loan costs and exit fees	(82)	(248)	(803)	(260)
Gain (loss) on extinguishment of debt	(22)	—	(22)	2,318
Realized and unrealized gain (loss) on derivatives	326	1,029	1,258	695
<b>INCOME (LOSS) BEFORE INCOME TAXES</b>				
Income tax (expense) benefit	114	75	(1,338)	(2,254)
<b>NET INCOME (LOSS)</b>				
(Income) loss attributable to noncontrolling interest in consolidated entities	303	367	1,046	58
Net (income) loss attributable to redeemable noncontrolling interests in operating partnership	1,919	925	1,623	664
<b>NET INCOME (LOSS) ATTRIBUTABLE TO THE COMPANY</b>				
Preferred dividends	(10,329)	(10,877)	(20,736)	(21,227)
Deemed dividends on preferred stock	(26)	(301)	(2,024)	(2,755)
<b>NET INCOME (LOSS) ATTRIBUTABLE TO COMMON STOCKHOLDERS</b>				
Net income (loss) attributable to common stockholders	\$ (0.33)	\$ (0.20)	\$ (0.28)	\$ (0.14)
Weighted average common shares outstanding – basic	66,501	65,806	66,478	68,378
<b>INCOME (LOSS) PER SHARE - BASIC:</b>				
Net income (loss) attributable to common stockholders	\$ (0.33)	\$ (0.20)	\$ (0.28)	\$ (0.14)
Weighted average common shares outstanding – basic	66,501	65,806	66,478	68,378
<b>INCOME (LOSS) PER SHARE - DILUTED:</b>				
Net income (loss) attributable to common stockholders	\$ (0.33)	\$ (0.20)	\$ (0.28)	\$ (0.14)
Weighted average common shares outstanding – diluted	66,501	65,806	66,478	68,378

*See Notes to Condensed Consolidated Financial Statements.*

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)**  
**(unaudited, in thousands)**

	Three Months Ended June			
	30,		Six Months Ended June 30,	
	2024	2023	2024	2023
<b>NET INCOME (LOSS)</b>	\$ (13,787)	\$ (3,138)	\$ 1,695	\$ 13,466
<b>OTHER COMPREHENSIVE INCOME (LOSS), NET OF TAX</b>				
Total other comprehensive income (loss)	—	—	—	—
<b>TOTAL COMPREHENSIVE INCOME (LOSS)</b>	<b>(13,787)</b>	<b>(3,138)</b>	<b>1,695</b>	<b>13,466</b>
Comprehensive (income) loss attributable to noncontrolling interest in consolidated entities	303	367	1,046	58
Comprehensive (income) loss attributable to redeemable noncontrolling interests in operating partnership	1,919	925	1,623	664
<b>COMPREHENSIVE INCOME (LOSS) ATTRIBUTABLE TO THE COMPANY</b>	<b>\$ (11,565)</b>	<b>\$ (1,846)</b>	<b>\$ 4,364</b>	<b>\$ 14,188</b>

*See Notes to Condensed Consolidated Financial Statements.*

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF EQUITY**  
(unaudited, in thousands except per share amounts)

	5.50% Series B												Redeemable Noncontrolling Interests in Operating Partnership			
	8.25% Series D						Noncontrolling			Cumulative		Series E		Series M		
	Cumulative		Additional		Interest in		Convertible		Redeemable		Redeemable					
	Preferred Stock	Common Stock	Paid-in	Accumulated	Consolidated	Entities	Preferred Stock	Preferred Stock	Preferred Stock							
	Shares	Amount	Shares	Amount	Capital	Deficit	Total	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	
Balance at March 31, 2024	1,600	\$ 16	66,477	\$ 664	\$ 718,606	\$ (412,013)	\$ (9,677)	\$ 297,596	3,078	\$ 65,426	16,163	\$ 375,261	1,748	\$ 43,694	\$ 33,005	
Equity-based compensation	—	—	—	—	296	—	—	296	—	—	—	—	—	—	—	839
Issuance of preferred stock	—	—	—	—	—	—	—	—	—	32	809	1	34	—	—	—
Issuance of restricted shares/units	—	—	45	1	(1)	—	—	—	—	—	—	—	—	—	—	—
Dividends declared – common stock (\$0.05/share)	—	—	—	—	—	(3,347)	—	(3,347)	—	—	—	—	—	—	—	—
Dividends declared – preferred stock - Series B (\$0.34/share)	—	—	—	—	—	(1,058)	—	(1,058)	—	—	—	—	—	—	—	—
Dividends declared – preferred stock - Series D (\$0.52/share)	—	—	—	—	—	(825)	—	(825)	—	—	—	—	—	—	—	—
Dividends declared – preferred stock - Series E (\$0.47/share)	—	—	—	—	—	(7,570)	—	(7,570)	—	—	—	—	—	—	—	—
Dividends declared – preferred stock - Series M (\$0.52/share)	—	—	—	—	—	(876)	—	(876)	—	—	—	—	—	—	—	—
Distributions to noncontrolling interests	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(368)
Net income (loss)	—	—	—	—	—	(11,565)	(303)	(11,868)	—	—	—	—	—	—	—	(1,919)
Redemption of preferred stock	—	—	—	—	—	—	—	—	—	(53)	(1,249)	(126)	(3,159)	—	—	—
Redemption value adjustment – preferred stock	—	—	—	—	—	(26)	—	(26)	—	—	—	26	—	—	—	—
Redemption value adjustment	—	—	—	—	—	(22)	—	(22)	—	—	—	—	—	—	—	22
Balance at June 30, 2024	1,600	\$ 16	66,522	\$ 665	\$ 718,901	\$ (437,302)	\$ (9,980)	\$ 272,300	3,078	\$ 65,426	16,142	\$ 374,847	1,623	\$ 40,569	\$ 31,579	

	5.50% Series B												Redeemable	
	8.25% Series D						Noncontrolling						Cumulative	
	Cumulative		Additional		Interest in		Convertible		Series E Redeemable		Redeemable		Series M	
	Preferred Stock	Common Stock	Paid-in	Accumulated	Deficit	Entities	Total	Preferred Stock	Preferred Stock	Preferred Stock	Preferred Stock	Preferred Stock	Redeemable	Noncontrolling
	Shares	Amount	Shares	Amount	Capital		Shares	Amount	Shares	Amount	Shares	Amount	Redeemable	Noncontrolling
Balance at December 31, 2023	1,600	\$ 16	66,636	\$ 666	\$ 718,498	\$ (412,199)	\$ (8,934)	\$ 298,047	3,078	\$ 65,426	16,316	\$ 377,035	1,833	\$ 45,623
Purchase of common stock	—	—	(170)	(2)	(367)	—	—	(369)	—	—	—	—	—	—
Equity-based compensation	—	—	—	—	768	—	—	768	—	—	—	—	—	1,494
Issuance of preferred stock	—	—	—	—	—	—	—	—	—	—	65	1,637	3	71
Issuance of restricted shares/units	—	—	57	1	2	—	—	3	—	—	—	—	—	32
Forfeiture of restricted common shares	—	—	(1)	—	—	—	—	—	—	—	—	—	—	—
Dividends declared – common stock (\$0.10 /share)	—	—	—	—	—	(6,692)	—	(6,692)	—	—	—	—	—	—
Dividends declared – preferred stock - Series B (\$0.68/share)	—	—	—	—	—	(2,116)	—	(2,116)	—	—	—	—	—	—
Dividends declared – preferred stock - Series D (\$1.04/share)	—	—	—	—	—	(1,650)	—	(1,650)	—	—	—	—	—	—
Dividends declared – preferred stock - Series E (\$0.94/share)	—	—	—	—	—	(15,170)	—	(15,170)	—	—	—	—	—	—
Dividends declared – preferred stock - Series M (\$1.04/share)	—	—	—	—	—	(1,800)	—	(1,800)	—	—	—	—	—	—
Distributions to noncontrolling interests	—	—	—	—	—	—	—	—	—	—	—	—	—	(734)
Net income (loss)	—	—	—	—	—	4,364	(1,046)	3,318	—	—	—	—	—	(1,623)
Redemption of preferred stock	—	—	—	—	—	—	—	—	—	(239)	(5,652)	(213)	(5,322)	—
Redemption value adjustment – preferred stock	—	—	—	—	—	(2,024)	—	(2,024)	—	—	1,827	—	197	—
Redemption value adjustment	—	—	—	—	—	(15)	—	(15)	—	—	—	—	—	15
Balance at June 30, 2024	1,600	\$ 16	66,522	\$ 665	\$ 718,901	\$ (437,302)	\$ (9,980)	\$ 272,300	3,078	\$ 65,426	16,142	\$ 374,847	1,623	\$ 40,569
														\$ 31,579

	5.50% Series B										Redeemable							
	8.25% Series D					Noncontrolling					Cumulative		Series E		Series M		Noncontrolling	
	Cumulative		Additional			Interest in			Convertible		Redeemable		Redeemable		Interests in			
	Preferred Stock	Common Stock	Paid-in	Accumulated	Deficit	Consolidated	Entities	Total	Preferred Stock	Operating Partnership								
Shares	Amount	Shares	Amount	Capital					Shares	Amount	Shares	Amount	Shares	Amount				
Balance at March 31, 2023	1,600	\$ 16	65,950	\$ 659	\$ 715,729	\$ (324,840)	\$ (14,013)	\$ 377,551	3,078	\$ 65,426	16,474	\$ 378,906	1,960	\$ 48,294	\$ 34,820			
Purchase of common stock	—	—	(1)	—	(4)	—	—	(4)	—	—	—	—	—	—	—			
Equity-based compensation	—	—	—	—	1,262	—	—	1,262	—	—	—	—	—	—	1,752			
Issuance of restricted shares/units	—	—	45	—	—	—	—	—	—	—	—	—	—	—	—			
Forfeiture of restricted common shares	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—			
Issuance of preferred stock	—	—	—	—	—	—	—	—	—	—	32	828	4	76	—			
Dividends declared – common stock (\$0.05/share)	—	—	—	—	—	(3,335)	—	(3,335)	—	—	—	—	—	—	—			
Dividends declared – preferred stock - Series B (\$0.34/share)	—	—	—	—	—	(1,058)	—	(1,058)	—	—	—	—	—	—	—			
Dividends declared – preferred stock-Series D (\$0.52/share)	—	—	—	—	—	(825)	—	(825)	—	—	—	—	—	—	—			
Dividends declared – preferred stock - Series E (\$0.50 /share)	—	—	—	—	—	(7,986)	—	(7,986)	—	—	—	—	—	—	—			
Dividends declared – preferred stock - Series M (\$0.52 /share)	—	—	—	—	—	(1,008)	—	(1,008)	—	—	—	—	—	—	—			
Contributions from noncontrolling interests	—	—	—	—	—	—	2,026	2,026	—	—	—	—	—	—	—			
Distributions to noncontrolling interests	—	—	—	—	—	—	(315)	(315)	—	—	—	—	—	—	(361)			
Redemption/conversion of operating partnership units	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(123)			
Net income (loss)	—	—	—	—	—	(1,846)	(367)	(2,213)	—	—	—	—	—	—	(925)			
Redemption of preferred stock	—	—	—	—	—	—	—	—	—	—	(21)	(507)	(4)	(90)	—			
Redemption value adjustment – preferred stock	—	—	—	—	—	(301)	—	(301)	—	—	—	176	—	125	—			
Redemption value adjustment	—	—	—	—	—	(11)	—	(11)	—	—	—	—	—	—	11			
Balance at June 30, 2023	1,600	\$ 16	65,994	\$ 659	\$ 716,987	\$ (341,210)	\$ (12,669)	\$ 363,783	3,078	\$ 65,426	16,485	\$ 379,403	1,960	\$ 48,405	\$ 35,174			

	5.50% Series B												Redeemable Noncontrolling Interests in Operating Partnership							
	8.25% Series D						Noncontrolling						Cumulative		Series E		Series M			
	Cumulative		Additional		Interest in		Convertible		Redeemable		Redeemable				Preferred Stock		Preferred Stock			
	Preferred Stock	Common Stock	Paid-in	Accumulated	Deficit	Entities	Total	Preferred Stock			Shares	Amount	Shares	Amount						
Balance at December 31, 2022	1,600	\$ 16	69,919	\$ 699	\$ 734,134	\$ (324,740)	\$ (16,346)	\$ 393,763	3,078	\$ 65,426	12,657	\$ 291,076	1,428	\$ 35,182	\$ 40,555					
Purchase of common stock	—	—	(3,969)	(40)	(19,214)	—	—	(19,254)	—	—	—	—	—	—	—	—				
Equity-based compensation	—	—	—	—	2,067	—	—	2,067	—	—	—	—	—	—	—	3,160				
Common stock issuance costs	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—				
Issuance of preferred stock	—	—	—	—	—	—	—	—	—	—	—	3,860	86,744	537	12,955	—				
Issuance of restricted shares/units	—	—	45	—	—	—	—	—	—	—	—	—	—	—	—	—				
Forfeiture of restricted common shares	—	—	(1)	—	—	—	—	—	—	—	—	—	—	—	—	—				
Dividends declared – common stock - (\$0.10/share)	—	—	—	—	—	(6,669)	—	(6,669)	—	—	—	—	—	—	—	—				
Dividends declared – preferred stock - Series B (\$0.69/share)	—	—	—	—	—	(2,116)	—	(2,116)	—	—	—	—	—	—	—	—				
Dividends declared – preferred stock-Series D (\$1.03/share)	—	—	—	—	—	(1,650)	—	(1,650)	—	—	—	—	—	—	—	—				
Dividends declared – preferred stock - Series E (\$1.00/share)	—	—	—	—	—	(15,520)	—	(15,520)	—	—	—	—	—	—	—	—				
Dividends declared – preferred stock - Series M (\$1.03/share)	—	—	—	—	—	(1,941)	—	(1,941)	—	—	—	—	—	—	—	—				
Contributions from noncontrolling interests	—	—	—	—	—	—	4,050	4,050	—	—	—	—	—	—	—	—				
Distributions to noncontrolling interests	—	—	—	—	—	—	(315)	(315)	—	—	—	—	—	—	—	(722)				
Redemption/conversion of operating partnership units	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	(7,162)				
Net income (loss)	—	—	—	—	—	14,188	(58)	14,130	—	—	—	—	—	—	—	(664)				
Redemption of preferred stock	—	—	—	—	—	—	—	—	—	—	—	(32)	(789)	(5)	(115)	—				
Redemption value adjustment – preferred stock	—	—	—	—	—	(2,755)	—	(2,755)	—	—	—	2,372	—	383	—	—				
Redemption value adjustment	—	—	—	—	—	(7)	—	(7)	—	—	—	—	—	—	—	7				
Balance at June 30, 2023	1,600	\$ 16	65,994	\$ 659	716,987	\$ (341,210)	\$ (12,669)	\$ 363,783	3,078	\$ 65,426	16,485	\$ 379,403	1,960	\$ 48,405	\$ 35,174					

See Notes to Condensed Consolidated Financial Statements.

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(unaudited, in thousands)**

	<b>Six Months Ended June 30,</b>	
	<b>2024</b>	<b>2023</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income (loss)	\$ 1,695	\$ 13,466
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and amortization	50,114	45,088
Equity-based compensation	2,262	5,227
Bad debt expense	248	327
(Gain) loss on extinguishment of debt	22	(2,318)
Amortization of loan costs, discounts and capitalized default interest	2,976	868
Write-off of loan costs and exit fees	803	260
Amortization of intangibles	238	237
Amortization of non-refundable membership initiation fees	(1,042)	(839)
Interest expense accretion on refundable membership club deposits	310	342
Realized and unrealized (gain) loss on derivatives	(1,258)	(695)
Equity in (earnings) loss of unconsolidated entity	134	148
Deferred income tax expense (benefit)	8	127
Changes in operating assets and liabilities:		
Accounts receivable and inventories	4,655	18,215
Prepaid expenses and other assets	2,921	(13,448)
Accounts payable and accrued expenses	(7,876)	(9,664)
Operating lease right-of-use assets	290	295
Due to/from related parties, net	(968)	605
Due to/from third-party hotel managers	296	10,678
Due to/from Ashford Inc.	2,769	(7,464)
Operating lease liabilities	(157)	(154)
Other liabilities	1,716	662
Net cash provided by (used in) operating activities	<u>60,156</u>	<u>61,963</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Proceeds from property insurance	542	327
Payments for initial franchise fee	—	(75)
Investment in unconsolidated entity	—	(158)
Improvements and additions to hotel properties	(39,224)	(36,199)
Net cash provided by (used in) investing activities	<u>(38,682)</u>	<u>(36,105)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Borrowings on indebtedness	62,000	—
Repayments of indebtedness	(30,000)	(196,355)
Payments of loan costs and exit fees	(3,311)	(790)
Payments for derivatives	(1,295)	(3,400)
Proceeds from derivatives	3,275	4,010
Purchase of common stock	(369)	(19,306)
Payments for dividends and distributions	(26,244)	(26,139)
Net proceeds from issuance of preferred stock	—	97,930
Contributions from noncontrolling interest in consolidated entities	—	4,050
Redemption of operating partnership units	—	(7,162)
Distributions to noncontrolling interest in consolidated entities	—	(2,024)
Redemption of preferred stock	(10,974)	(904)
Net cash provided by (used in) financing activities	<u>(6,918)</u>	<u>(150,090)</u>
Net change in cash, cash equivalents and restricted cash (including cash, cash equivalents and restricted cash held for sale)	14,556	(124,232)
Cash, cash equivalents and restricted cash at beginning of period	166,503	315,696
Cash, cash equivalents and restricted cash at end of period (including cash, cash equivalents and restricted cash held for sale)	<u>\$ 181,059</u>	<u>\$ 191,464</u>



	<b>Six Months Ended June 30,</b>	
	<b>2024</b>	<b>2023</b>
<b>SUPPLEMENTAL CASH FLOW INFORMATION</b>		
Interest paid	\$ 51,021	\$ 53,297
Income taxes paid (refunded)	119	2,920
<b>SUPPLEMENTAL DISCLOSURE OF NON-CASH INVESTING AND FINANCING ACTIVITIES</b>		
Dividends and distributions declared but not paid	\$ 9,333	\$ 8,917
Capital expenditures accrued but not paid	12,972	21,011
Distributions declared but not paid to a noncontrolling interest in a consolidated entity	3,723	315
Non-cash preferred stock dividends	1,708	1,747
Unsettled proceeds from derivatives	297	470
Non-cash common stock/unit dividends	35	—
<b>SUPPLEMENTAL DISCLOSURE OF CASH, CASH EQUIVALENTS AND RESTRICTED CASH</b>		
Cash and cash equivalents at beginning of period	\$ 85,599	\$ 261,541
Restricted cash at beginning of period	80,904	54,155
Cash, cash equivalents and restricted cash at beginning of period	<u>\$ 166,503</u>	<u>\$ 315,696</u>
Cash and cash equivalents at end of period	\$ 114,607	\$ 128,025
Restricted cash at end of period	52,339	63,439
Cash, cash equivalents and restricted cash at end of period	<u>166,946</u>	<u>191,464</u>
Cash and cash equivalents at end of period included in assets held for sale	5,711	—
Restricted cash at end of period included in assets held for sale	8,402	—
Cash, cash equivalents and restricted cash at end of period (including cash, cash equivalents and restricted cash held for sale)	<u>\$ 181,059</u>	<u>\$ 191,464</u>

*See Notes to Condensed Consolidated Financial Statements.*

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(unaudited)**

**1. Organization and Description of Business**

Braemar Hotels & Resorts Inc., together with its subsidiaries ("Braemar"), is a Maryland corporation that invests primarily in high revenue per available room ("RevPAR") luxury hotels and resorts. High RevPAR, for purposes of our investment strategy, means RevPAR of at least twice the then-current U.S. national average RevPAR for all hotels as determined by STR, LLC. Braemar has elected to be taxed as a real estate investment trust ("REIT") under the Internal Revenue Code of 1986, as amended (the "Code"). Braemar conducts its business and owns substantially all of its assets through its operating partnership, Braemar Hospitality Limited Partnership ("Braemar OP"). Terms such as the "Company," "we," "us" or "our" refer to Braemar Hotels & Resorts Inc. and, as the context may require, all entities included in its condensed consolidated financial statements.

We are advised by Ashford Hospitality Advisors LLC ("Ashford LLC" or the "Advisor") through an advisory agreement. Ashford LLC is a subsidiary of Ashford Inc. All of the hotel properties in our portfolio are currently asset-managed by Ashford LLC. We do not have any employees. All of the services that might be provided by employees are provided to us by Ashford LLC.

We do not operate any of our hotel properties directly; instead we contractually engage hotel management companies to operate them for us under management contracts. Remington Lodging & Hospitality, LLC ("Remington Hospitality"), a subsidiary of Ashford Inc., manages four of our 16 hotel properties. Third-party management companies manage the remaining hotel properties.

Ashford Inc. also provides other products and services to us or our hotel properties through certain entities in which Ashford Inc. has an ownership interest. These products and services include, but are not limited to, design and construction services, debt placement and related services, broker-dealer and distribution services, audio visual services, real estate advisory and brokerage services, insurance policies covering general liability, workers compensation and business automobile claims, insurance claims services, hypoallergenic premium rooms, watersport activities, travel/transportation services, mobile key technology and cash management services.

The accompanying condensed consolidated financial statements include the accounts of wholly-owned and majority-owned subsidiaries of Braemar OP that as of June 30, 2024, own 16 hotel properties in seven states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands ("USVI"). The portfolio includes 14 wholly-owned hotel properties and two hotel properties that are owned through a partnership in which Braemar OP has a controlling interest. These hotel properties represent 4,201 total rooms, or 3,963 net rooms, excluding those attributable to our partner. As a REIT, Braemar is required to comply with limitations imposed by the Code related to operating hotels. As of June 30, 2024, 15 of our 16 hotel properties were leased by wholly-owned or majority-owned subsidiaries that are treated as taxable REIT subsidiaries ("TRS") for federal income tax purposes (collectively, the TRS entities are referred to as "Braemar TRS"). One hotel property, located in the USVI, is owned by our USVI TRS. Braemar TRS then engages third-party or affiliated hotel management companies to operate the hotel properties under management contracts. Hotel operating results related to the hotel properties are included in the condensed consolidated statements of operations.

As of June 30, 2024, 13 of the 16 hotel properties were leased by Braemar's wholly-owned TRS, and the two hotel properties majority-owned through a consolidated partnership were leased to a TRS wholly-owned by such consolidated partnership. Each leased hotel is leased under a percentage lease that provides for each lessee to pay in each calendar month the base rent plus, in each calendar quarter, percentage rent, if any, based on hotel revenues. Lease revenue from Braemar TRS is eliminated in consolidation. The hotel properties are operated under management contracts with Marriott Hotel Services, LLC ("Marriott"), Hilton Management LLC ("Hilton"), Accor Management US Inc. ("Accor"), Four Seasons Hotels Limited ("Four Seasons"), Hyatt Corporation ("Hyatt"), The Ritz-Carlton Hotel Company, L.L.C. and its affiliates, each of which is also an affiliate of Marriott ("Ritz-Carlton"), and Remington Hospitality, which are eligible independent contractors under the Code.

**2. Significant Accounting Policies**

**Basis of Presentation and Principles of Consolidation**—The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles ("GAAP") for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. These condensed consolidated financial statements include the accounts of Braemar Hotels & Resorts Inc., its majority-owned subsidiaries, and its majority-owned entities in which it has a controlling interest. All intercompany accounts and transactions

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (continued)**  
**(unaudited)**

between consolidated entities have been eliminated in these condensed consolidated financial statements. We have condensed or omitted certain information and footnote disclosures normally included in financial statements presented in accordance with GAAP in the accompanying unaudited condensed consolidated financial statements. We believe the disclosures made herein are adequate to prevent the information presented from being misleading. However, the financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in our 2023 Annual Report on Form 10-K filed with the Securities and Exchange Commission ("SEC") on March 14, 2024.

Braemar OP is considered to be a variable interest entity ("VIE"), as defined by authoritative accounting guidance. A VIE must be consolidated by a reporting entity if the reporting entity is the primary beneficiary because it has (i) the power to direct the VIE's activities that most significantly impact the VIE's economic performance and (ii) the obligation to absorb losses of the VIE or the right to receive benefits from the VIE. All major decisions related to Braemar OP that most significantly impact its economic performance, including but not limited to operating procedures with respect to business affairs and any acquisitions, dispositions, financings, restructurings or other transactions with sellers, purchasers, lenders, brokers, agents and other applicable representatives, are subject to the approval of our wholly-owned subsidiary, Braemar OP General Partner LLC, its general partner. As such, we consolidate Braemar OP.

The following item affects reporting comparability of our historical condensed consolidated financial statements:

- Historical seasonality patterns at some of our hotel properties cause fluctuations in our overall operating results. Consequently, operating results for the three and six months ended June 30, 2024, are not necessarily indicative of the results that may be expected for the year ending December 31, 2024.

**Use of Estimates**—The preparation of these condensed consolidated financial statements in accordance with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

**Recently Issued Accounting Standards**—In November 2023, the Financial Accounting Standards Board's ("FASB") issued Accounting Standards Update ("ASU") 2023-07, *Segment Reporting (Topic 280):Improvements to Reportable Segment Disclosures*, which expands annual and interim disclosure requirements for reportable segments, primarily through enhanced disclosures about significant segment expenses. ASU 2023-07 is effective for our annual periods beginning January 1, 2024, and for interim periods beginning January 1, 2025, with early adoption permitted. As of June 30, 2024, the Company has not adopted this ASU. The adoption of this ASU is expected to only impact disclosures with respect to the Company's consolidated financial statements.

In December 2023, the FASB issued ASU 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*, to expand the disclosure requirements for income taxes, specifically related to the rate reconciliation and income taxes paid. ASU 2023-09 is effective for our annual periods beginning January 1, 2025, with early adoption permitted. The amendments in this ASU may be applied prospectively by providing the revised disclosures for the period ending December 31, 2025 and continuing to provide the pre-ASU disclosures for the prior periods, or the amendments may be applied retrospectively by providing the revised disclosures for all periods presented. As of June 30, 2024, the Company has not adopted this ASU. The adoption of this ASU is expected to only impact disclosures with respect to the Company's consolidated financial statements.

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (continued)**  
**(unaudited)**

**3. Revenue**

The following tables present our revenue disaggregated by geographical areas (dollars in thousands):

Primary Geographical Market	Three Months Ended June 30, 2024					Total
	Number of Hotels	Rooms	Food and Beverage	Other Hotel		
California	6	\$ 29,578	\$ 9,968	\$ 5,255	\$ 44,801	
Puerto Rico	1	9,931	4,238	2,576		16,745
Arizona	1	8,733	6,075	2,425		17,233
Colorado	1	1,912	1,768	1,715		5,395
Florida	2	14,924	8,636	6,515		30,075
Illinois	1	8,347	2,348	650		11,345
Pennsylvania	1	8,642	1,786	326		10,754
Washington	1	8,786	1,407	774		10,967
Washington, D.C.	1	13,511	5,549	906		19,966
USVI	1	11,863	5,788	2,655		20,306
<b>Total</b>	<b>16</b>	<b>\$ 116,227</b>	<b>\$ 47,563</b>	<b>\$ 23,797</b>		<b>\$ 187,587</b>

Primary Geographical Market	Three Months Ended June 30, 2023					Total
	Number of Hotels	Rooms	Food and Beverage	Other Hotel		
California	6	\$ 31,004	\$ 10,630	\$ 5,066	\$ 46,700	
Puerto Rico	1	12,870	5,060	3,087		21,017
Arizona	1	7,924	5,268	2,043		15,235
Colorado	1	1,866	1,811	1,689		5,366
Florida	2	15,290	8,630	5,665		29,585
Illinois	1	7,738	1,947	412		10,097
Pennsylvania	1	7,643	1,650	349		9,642
Washington	1	8,193	1,337	411		9,941
Washington, D.C.	1	11,433	5,721	426		17,580
USVI	1	13,176	5,722	2,646		21,544
<b>Total</b>	<b>16</b>	<b>\$ 117,137</b>	<b>\$ 47,776</b>	<b>\$ 21,794</b>		<b>\$ 186,707</b>

Primary Geographical Market	Six Months Ended June 30, 2024					Total
	Number of Hotels	Rooms	Food and Beverage	Other Hotel		
California	6	\$ 61,517	\$ 20,719	\$ 10,666	\$ 92,902	
Puerto Rico	1	28,926	9,225	5,804		43,955
Arizona	1	22,848	14,150	4,928		41,926
Colorado	1	15,093	7,421	5,463		27,977
Florida	2	36,972	19,293	13,509		69,774
Illinois	1	11,721	3,284	1,070		16,075
Pennsylvania	1	13,138	2,907	617		16,662
Washington	1	13,245	2,144	1,281		16,670
Washington, D.C.	1	22,643	10,985	1,795		35,423
USVI	1	28,676	10,982	5,644		45,302
<b>Total</b>	<b>16</b>	<b>\$ 254,779</b>	<b>\$ 101,110</b>	<b>\$ 50,777</b>		<b>\$ 406,666</b>

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (continued)**  
(unaudited)

**Six Months Ended June 30, 2023**

Primary Geographical Market	Number of Hotels	Rooms	Food and Beverage	Other Hotel	Total
California	6	\$ 65,570	\$ 21,940	\$ 10,756	\$ 98,266
Puerto Rico	1	28,300	9,935	6,224	44,459
Arizona	1	22,081	11,786	4,659	38,526
Colorado	1	16,207	8,172	4,672	29,051
Florida	2	36,939	19,129	12,336	68,404
Illinois	1	11,304	2,930	767	15,001
Pennsylvania	1	12,163	2,646	631	15,440
Washington	1	12,414	2,037	823	15,274
Washington, D.C.	1	20,210	11,209	859	32,278
USVI	1	29,476	10,220	5,613	45,309
<b>Total</b>	<b>16</b>	<b>\$ 254,664</b>	<b>\$ 100,004</b>	<b>\$ 47,340</b>	<b>\$ 402,008</b>

**4. Investments in Hotel Properties, net**

Investments in hotel properties, net consisted of the following (in thousands):

	June 30, 2024	December 31, 2023
Land	\$ 630,842	\$ 630,842
Buildings and improvements	1,429,670	1,535,501
Furniture, fixtures and equipment	169,828	166,673
Construction in progress	26,437	36,954
Residences	12,746	12,746
<b>Total cost</b>	<b>2,269,523</b>	<b>2,382,716</b>
Accumulated depreciation	(469,885)	(498,508)
<b>Investments in hotel properties, net</b>	<b>\$ 1,799,638</b>	<b>\$ 1,884,208</b>

**Assets Held For Sale**

On May 6, 2024, the Company entered into a purchase and sale agreement for the Hilton La Jolla Torrey Pines. As of June 30, 2024, the Hilton La Jolla Torrey Pines was classified as held for sale. Depreciation and amortization ceased as of the date the assets were deemed held for sale. Since the sale of this hotel did not represent a strategic shift that has (or will have) a major effect on our operations or financial results, its results of operations were not reported as discontinued operations in the consolidated financial statements. The Hilton La Jolla Torrey Pines sale closed on July 17, 2024. See note 17.

The major classes of assets and liabilities related to assets held for sale included in the consolidated balance sheet at June 30, 2024 were as follows:

**June 30, 2024**

<b>Assets</b>	
Investments in hotel properties, net	\$ 65,156
Cash and cash equivalents	5,711
Restricted cash	8,402
Accounts receivable, net	1,586
Inventories	61
Prepaid expenses	373
Operating lease right-of-use assets	43,538
Other assets	104
<b>Assets held for sale</b>	<b>\$ 124,931</b>
<b>Liabilities</b>	
Indebtedness, net	\$ 66,482
Accounts payable and accrued expenses	5,114
Due to Ashford Inc., net	173
Due to third-party hotel managers, net	579
Operating lease liabilities	41,112
<b>Liabilities related to assets held for sale</b>	<b>\$ 113,460</b>

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (continued)**  
**(unaudited)**

***Impairment Charges***

During the six months ended June 30, 2024 and 2023, no impairment charges were recorded.

**5. Investment in Unconsolidated Entity**

OpenKey, Inc. ("OpenKey"), which is controlled and consolidated by Ashford Inc., is a hospitality-focused mobile key platform that provides a universal smart phone app and related hardware and software for keyless entry into hotel guest rooms. As of June 30, 2024, the Company has made equity investments in OpenKey totaling \$2.9 million. All investments were recommended by our Related Party Transactions Committee and unanimously approved by the independent members of our board of directors.

Our investment is recorded as "investment in unconsolidated entity" in our condensed consolidated balance sheets and is accounted for under the equity method of accounting as we have significant influence over the entity under the applicable accounting guidance. We review our investment in OpenKey for impairment in each reporting period pursuant to the applicable authoritative accounting guidance. An investment is impaired when its estimated fair value is less than the carrying amount of the investment. Any impairment is recorded in equity in earnings (loss) of unconsolidated entity. No such impairment was recorded for the six months ended June 30, 2024 and 2023.

The following table summarizes our carrying value and ownership interest in OpenKey:

	June 30, 2024	December 31, 2023
Carrying value of the investment in OpenKey (in thousands)	\$ 1,264	\$ 1,416
Ownership interest in OpenKey	7.9 %	7.9 %

The following table summarizes our equity in earnings (loss) in OpenKey (in thousands):

Line Item	Three Months Ended June		Six Months Ended June 30,	
	30, 2024	2023	2024	2023
Equity in earnings (loss) of unconsolidated entity	\$ (94)	\$ (80)	\$ (152)	\$ (154)

On February 2, 2023, the Company entered into a loan funding agreement with Ashford Inc. and OpenKey. Per the agreement, Ashford Inc. and the Company will provide OpenKey with a maximum loan amount of \$5.0 million to be allocated on a pro-rata basis based on current ownership interests and funded quarterly. The loan bears interest at an annual rate of 15%. Additionally, repayment of the loan principal and all accrued interest is due upon certain events. As of June 30, 2024, the Company has funded approximately \$238,000. On February 27, 2024, the Company approved additional funding, together with Ashford Inc., up to \$1.0 million in aggregate to OpenKey, allocated pro rata among them. As of June 30, 2024, no funding has been made pursuant to the 2024 funding agreement. See note 17.

The following table summarizes our note receivable from OpenKey (in thousands):

Line Item	June 30, 2024	December 31, 2023
Investment in unconsolidated entity	\$ 276	\$ 258

The following table summarizes the interest income associated with the loan to OpenKey (in thousands):

Line Item	Three Months Ended June		Six Months Ended June 30,	
	30, 2024	2023	2024	2023
Equity in earnings (loss) of unconsolidated entity	\$ 9	\$ 5	\$ 18	\$ 6

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (continued)**  
**(unaudited)**

**6. Indebtedness, net**

Indebtedness, net consisted of the following (dollars in thousands):

Indebtedness	Collateral	Current Maturity	Final		June 30, 2024	December 31, 2023
			Maturity <sup>(14)</sup>	Interest Rate		
Mortgage loan <sup>(3)</sup>	Cameo Beverly Hills	August 2024	August 2024	SOFR <sup>(1)</sup> + 3.66%	\$ —	\$ 30,000
Mortgage loan <sup>(4)</sup>	Hilton La Jolla Torrey Pines	August 2024	August 2024	9.00%	66,600	66,600
Mortgage loan <sup>(5)</sup>	The Ritz-Carlton Lake Tahoe	January 2025	January 2026	SOFR <sup>(1)</sup> + 3.60%	53,413	53,413
Mortgage loan <sup>(6)</sup>	Park Hyatt Beaver Creek Resort & Spa	February 2025	February 2027	SOFR <sup>(1)</sup> + 2.86%	70,500	70,500
Mortgage loan <sup>(7)</sup>	The Notary Hotel	June 2025	June 2025	SOFR <sup>(1)</sup> + 2.66%	293,180	293,180
	The Clancy					
	Sofitel Chicago Magnificent Mile					
	Marriott Seattle Waterfront					
Mortgage loan <sup>(8)</sup>	The Ritz-Carlton St. Thomas	August 2025	August 2026	SOFR <sup>(1)</sup> + 4.35%	42,500	42,500
Mortgage loan <sup>(9)</sup>	Pier House Resort & Spa	September 2025	September 2026	SOFR <sup>(1)</sup> + 3.60%	80,000	80,000
Mortgage loan <sup>(10)</sup>	The Ritz-Carlton Reserve Dorado Beach	March 2026	March 2026	SOFR <sup>(1)</sup> + 4.75%	62,000	—
Convertible Senior Notes	Equity	June 2026	June 2026	4.50%	86,250	86,250
BAML Credit Facility <sup>(11)</sup>	Bardessono Hotel and Spa	July 2026	July 2027	Base Rate <sup>(2)</sup> + 1.25% to 2.00% or SOFR <sup>(1)</sup> + 2.35% to 3.10%	200,000	200,000
	Hotel Yountville					
	The Ritz-Carlton Sarasota					
Mortgage loan <sup>(12)</sup>	Four Seasons Resort Scottsdale	December 2026	December 2028	SOFR <sup>(1)</sup> + 3.75%	140,000	140,000
Mortgage loan <sup>(13)</sup>	Capital Hilton	December 2026	December 2028	SOFR <sup>(1)</sup> + 3.75%	110,600	110,600
					1,205,043	1,173,043
Capitalized default interest						
and late charges, net					26	120
Deferred loan costs, net					(8,893)	(9,135)
Premiums/(discounts), net					(1,255)	(1,584)
Indebtedness, net					1,194,921	1,162,444
Indebtedness related to assets held for						
sale, net <sup>(4)</sup>	Hilton La Jolla Torrey Pines	August 2024	August 2024	9.00%	66,482	—
					\$ 1,128,439	\$ 1,162,444

<sup>(1)</sup> SOFR rates were 5.34% and 5.35% at June 30, 2024 and December 31, 2023, respectively.

<sup>(2)</sup> Base Rate, as defined in the secured credit facility agreement, is the greater of (i) the prime rate set by Bank of America, (ii) federal funds rate + 0.50%, (iii) Term SOFR + 1.00%, or (iv) 1.00%.

<sup>(3)</sup> This mortgage loan had a SOFR floor of 1.50%. On April 9, 2024, we repaid this mortgage loan.

<sup>(4)</sup> On February 5, 2024, we amended this mortgage loan. Terms of the amendment included extending the maturity date by six months from February 2024 to August 2024, and converting the interest rate from a variable rate of SOFR + 1.70% to a fixed rate of 9.00%. This mortgage is secured by the Hilton La Jolla Torrey Pines and is held for sale as of June 30, 2024. On July 17, 2024, we sold this property for \$165.0 million.

<sup>(5)</sup> This mortgage loan has one one-year extension option, subject to satisfaction of certain conditions.

<sup>(6)</sup> This mortgage loan has three one-year extension options, subject to satisfaction of certain conditions, of which the first was exercised February 2024.

<sup>(7)</sup> This mortgage loan has five one-year extension options, subject to satisfaction of certain conditions, of which the fifth was exercised in June 2024.

<sup>(8)</sup> On January 29, 2024, we amended this mortgage loan. Terms of the amendment included extending the current maturity date one year to August 2025, and the variable rate increased from SOFR + 4.04% to SOFR 4.35%. This amended mortgage loan has one one-year extension option, subject to satisfaction of certain conditions. This mortgage loan has a SOFR floor of 4.00%.

<sup>(9)</sup> On January 3, 2024, we amended this mortgage loan. Terms of the amendment included extending the current maturity date one year to September 2025, and the variable rate increased from SOFR + 1.95% to SOFR + 3.60%. This amended mortgage loan has one one-year extension option, subject to satisfaction of certain conditions.

<sup>(10)</sup> On March 7, 2024, we entered into a new \$62.0 million mortgage loan. The new loan is interest only and bears interest at a rate of SOFR +4.75%.

<sup>(11)</sup> This secured credit facility has one one-year extension option, subject to satisfaction of certain conditions.

<sup>(12)</sup> This mortgage loan has two one-year extension options, subject to satisfaction of certain conditions. This mortgage loan has a SOFR floor of 1.00%.

<sup>(13)</sup> This mortgage loan has two one-year extension options, subject to satisfaction of certain conditions. This mortgage loan has a SOFR floor of 2.00%.

<sup>(14)</sup> The final maturity date assumes all available extension options will be exercised.

On January 18, 2023, the Company repaid its \$54.0 million mortgage loan secured by The Ritz-Carlton Reserve Dorado Beach, which resulted in a gain on extinguishment of debt of \$2.3 million for the year ended December 31, 2023. The gain was primarily attributable to the premium that was recorded upon the assumption of the mortgage loan when the hotel was acquired.

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**Convertible Senior Notes**

In May 2021, the Company issued \$ 86.25 million aggregate principal amount of 4.50% Convertible Senior Notes due June 2026 (the "Convertible Senior Notes"). The net proceeds from this offering of the Convertible Senior Notes were approximately \$82.8 million after deducting the underwriting fees and other expenses paid by the Company.

The Convertible Senior Notes are governed by an indenture between the Company and U.S. Bank National Association, as trustee. The Convertible Senior Notes bear interest at a rate of 4.50% per annum, payable semi-annually in arrears on June 1 and December 1 of each year, beginning on December 1, 2021. The Convertible Senior Notes will mature on June 1, 2026. For the three and six months ended June 30, 2024, the Company recorded coupon interest expense of \$970,000 and \$1.9 million, respectively. For the three and six months ended June 30, 2023, the Company recorded coupon interest expense of \$970,000 and \$1.9 million, respectively.

For the three and six months ended June 30, 2024, the Company recorded discount amortization of \$ 154,000 and \$306,000, respectively, related to the initial purchase discount, with the remaining discount balance to be amortized through June 2026. For the three and six months ended June 30, 2023, the Company recorded discount amortization of \$146,000 and \$290,000, respectively.

The Convertible Senior Notes are convertible at any time prior to the close of business on the business day immediately preceding the maturity date for cash, shares of the Company's common stock or a combination of cash and shares of the Company's common stock, at the election of the Company, based on an initial conversion rate of 157.7909 shares of the Company's common stock per \$1,000 principal amount of notes (equivalent to a conversion price of approximately \$6.34 per share of common stock), subject to adjustment of the conversion rate under certain circumstances. As of June 30, 2024, the conversion rate is 179.2962. In addition, following the occurrence of certain corporate events, if the Company provides notice of redemption or if it exercises its option to convert the Convertible Senior Notes, the Company will, in certain circumstances, increase the conversion rate for a holder that converts its Convertible Senior Notes in connection with such corporate event, such notice of redemption, or such issuer conversion option, as the case may be.

The Company may redeem the Convertible Senior Notes at the Company's option, in whole or in part, on any business day on or after the date of issuance if the last reported sale price per share of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which the Company provides a notice of redemption at a redemption price equal to 100% of the principal amount of the Convertible Senior Notes to be redeemed subject to certain adjustments, plus accrued and unpaid interest to, but excluding, the redemption date.

**Credit Facility**

On July 31, 2023, the Company entered into a Credit Agreement (the "Credit Agreement") with Braemar OP (the "Borrower"), the lenders party thereto (the "Lenders") and Bank of America, N.A., as administrative agent and L/C Issuer (as defined in the Credit Agreement). Bank of America, N.A. acted as administrative agent and lead arranger on the transaction. Syndicate bank participants include TBK Bank and MidFirst Bank.

The Credit Agreement, as amended by the First Amendment to Credit Agreement, dated as of February 21, 2024, evidences a \$200 million secured credit facility (the "Facility") comprised of a secured term loan facility of \$150 million (the "Term Loan Facility") and a secured revolving credit facility of \$50 million (the "Revolving Credit Facility"). Upon satisfaction of certain conditions, including the addition of new Borrowing Base Properties (as defined in the Credit Agreement), the Facility may be increased to an amount of not more than \$400 million in the aggregate. The maximum availability under the Facility is determined on a quarterly basis and limited to the lesser of (i) \$200 million (subject to increase of up to \$400 million in the aggregate); (ii) 55% of the appraised value of all Borrowing Base Properties; and (iii) the DSC Amount (as defined below). The initial Borrowing Base Properties include the Company's Ritz-Carlton Sarasota, Bardessono Hotel and Spa and Hotel Yountville properties (the "Initial Borrowing Base Properties"). The "DSC Amount" means the maximum principal amount that can be supported from the Adjusted NOI (as defined in the Credit Agreement) from the Borrowing Base Properties assuming: (i) a 30-year amortization and an interest rate which is the greater of (a) the ten ( 10) year U.S. Treasury Rate plus 2.50% and (b) 7.50%; and (ii) a minimum debt service coverage of 1.55 to 1.00.

The Facility is a three-year, interest-only facility with all outstanding principal due at maturity, with a one-year extension option, subject to the satisfaction of certain conditions, including the payment of an Extension Fee (as defined in the Credit Agreement) equal to 20 basis points (0.20%) of the outstanding Facility amount.

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The Credit Agreement is guaranteed by the Company, the Borrower and certain other eligible subsidiaries of the Company and secured by: (i) perfected lien mortgages or deeds of trust and security interests in the Borrowing Base Properties (as defined in the Credit Agreement); (ii) assignments of leases and rents with respect to the Borrowing Base Properties; (iii) assignments of all management agreements, franchise agreements, licenses and other material agreements relating to the Borrowing Base Properties; (iv) perfected first priority liens on all reserve accounts and all operating accounts related to each Borrowing Base Property; and (v) perfected first priority liens on and security interests in each subsidiary guarantor owning a Borrowing Base Property.

Borrowings under the Credit Agreement will bear interest at Daily SOFR or Term SOFR plus 10 basis points (with a 0% floor) plus the applicable margin. Depending on the Company's Net Debt to EBITDA ratio, the applicable margin for SOFR ranges from 2.25% to 3.00%. Default interest would accrue at the applicable rate plus 2.0%.

The Facility contains customary terms, covenants, negative covenants, events of default, limitations and other conditions for credit facilities of this type. Subject to certain exceptions, the Company and the Borrower are subject to restrictions on incurring additional indebtedness and liens, investments, mergers and fundamental changes, sales or other dispositions of property, dividends and stock redemptions, changes in the nature of the Borrower's business, transactions with affiliates and burdensome agreements.

Financial covenants are generally based on the financial condition and results of operations of the Company and its consolidated subsidiaries and include, among others, the following:

- (i) a Consolidated Leverage Ratio (*i.e.*, Consolidated Net Debt to the Consolidated Total Asset Value) of not more than 55%; and
- (ii) a Consolidated Fixed Charge Coverage Ratio ("FCCR") (*i.e.*, the ratio of Consolidated Adjusted EBITDA to Consolidated Fixed Charges) of not less than (i) prior to December 31, 2024, 1.1 to 1.0 and (ii) thereafter, 1.25 to 1.0.

The Credit Agreement includes customary events of default, and the occurrence of an event of default will permit the Lenders to terminate commitments to lend under the Credit Agreement and accelerate payments of all amounts outstanding thereunder. On August 7, 2024 the Facility was repaid and the Company is no longer subject to any covenants.

If we violate covenants in any debt agreement, we could be required to repay all or a portion of our indebtedness before maturity at a time when we might be unable to arrange financing for such repayment on attractive terms, if at all. The assets of certain of our subsidiaries are pledged under non-recourse indebtedness and are not available to satisfy the debts and other obligations of the consolidated group. As of June 30, 2024, we were in compliance with all covenants.

## 7. Derivative Instruments

**Interest Rate Derivatives**—We are exposed to risks arising from our business operations, economic conditions and financial markets. To manage these risks, we primarily use interest rate derivatives to hedge our debt and our cash flows, which include interest rate caps. All derivatives are recorded at fair value. Payments from counterparties on in-the-money interest rate caps are recognized as realized gains on our consolidated statements of operations.

The following table summarizes the interest rate derivatives we entered into over the applicable periods:

	Six Months Ended June 30,	
	2024	2023
<b>Interest rate caps:<sup>(1)</sup></b>		
Notional amount (in thousands)	\$ 417,680	\$ 496,180
Strike rate low end of range	3.50 %	3.50 %
Strike rate high end of range	5.25 %	5.25 %
Effective date range	January 2024 - June 2024	January 2023 - June 2023
Termination date range	January 2025 - June 2025	October 2023 - June 2024
Total cost of interest rate caps (in thousands)	\$ 1,295	\$ 2,645

<sup>(1)</sup> No instruments were designated as cash flow hedges.

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Interest rate derivatives consisted of the following:

<u>Interest rate caps:</u> <sup>(1)</sup>	June 30, 2024	December 31, 2023
Notional amount (in thousands)	\$ 778,280	\$ 778,280
Strike rate low end of range	2.00 %	2.00 %
Strike rate high end of range	5.25 %	5.25 %
Termination date range	August 2024 - January 2026	June 2024- January 2025
Aggregate principal balance on corresponding mortgage loans (in thousands)	\$ 747,693	\$ 777,693

<sup>(1)</sup> No instruments were designated as cash flow hedges.

**Warrants**—On August 5, 2021, as part of the consideration paid to acquire the Cameo Beverly Hills (formerly known as the Mr. C Beverly Hills Hotel) and five adjacent luxury residences, the Company issued 500,000 warrants for the purchase of Braemar common stock with a \$ 6.00 strike price on or after August 5, 2021 until August 5, 2024. The holder can choose to exercise the warrants by cash or by net issue exercise, in which event the Company shall issue to the holder a number of warrant shares which reflect the fair market value of the Company's common stock. As of June 30, 2024, no warrants have been exercised.

The initial fair value of the warrants was calculated using a Black-Scholes option pricing model with the following assumptions: three-year contractual term; 97.93% volatility; 0% dividend rate; and a risk-free interest rate of 0.38%. The estimated fair value of the warrants was approximately \$ 1.5 million on the date of issuance. The warrants are re-valued at each reporting period with the change in fair value recorded through earnings.

In applying the guidance in ASC 815, it was determined that the warrants should be classified as a liability as a result of certain settlement provisions. The warrants are included in derivative liabilities on the condensed consolidated balance sheets and changes in value are reported as a component of "realized and unrealized gain (loss) on derivatives" on the condensed consolidated statements of operations. This is a Level 2 valuation technique.

## 8. Fair Value Measurements

**Fair Value Hierarchy**—Our financial instruments measured at fair value either on a recurring or a non-recurring basis are classified in a hierarchy for disclosure purposes consisting of three levels based on the observability of inputs in the marketplace as discussed below:

- Level 1: Fair value measurements that are quoted prices (unadjusted) in active markets that we have the ability to access for identical assets or liabilities. Market price data generally is obtained from exchange or dealer markets.
- Level 2: Fair value measurements based on inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs include quoted prices for similar assets and liabilities in active markets, and inputs other than quoted prices that are observable for the asset or liability, such as interest rates and yield curves that are observable at commonly quoted intervals.
- Level 3: Fair value measurements based on valuation techniques that use significant inputs that are unobservable. The circumstances for using these measurements include those in which there is little, if any, market activity for the asset or liability.

The fair value of interest rate caps are determined using the market standard methodology of discounting the future expected cash receipts that would occur if variable interest rates rose above the strike rates of the caps. Variable interest rates used in the calculation of projected receipts and payments on the caps are based on an expectation of future interest rates derived from observable market interest rate curves (SOFR forward curves) and volatilities (Level 2 inputs). We also incorporate credit valuation adjustments (Level 3 inputs) to appropriately reflect both our own nonperformance risk and the respective counterparty's nonperformance risk.

When a majority of the inputs used to value our derivatives fall within Level 2 of the fair value hierarchy, the derivative valuations in their entirety are classified in Level 2 of the fair value hierarchy. However, when the valuation adjustments associated with our derivatives utilize Level 3 inputs, such as estimates of current credit spreads, to evaluate the likelihood of default by us and our counterparties, which we consider significant (10% or more) to the overall valuation of our derivatives, the derivative valuations in their entirety are classified in Level 3 of the fair value hierarchy. Transfers of inputs between levels are determined at the end of each reporting period. In determining the fair values of our derivatives at June 30, 2024, the SOFR interest rate forward curve (Level 2 inputs) assumed a downtrend from 5.340% to 3.877% for the remaining term of our

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derivatives. Credit spreads (Level 3 inputs) used in determining the fair values derivatives assumed an uptrend in nonperformance risk for us and all of our counterparties through the maturity dates.

**Assets and Liabilities Measured at Fair Value on a Recurring Basis**

The following table presents our assets and liabilities measured at fair value on a recurring basis aggregated by the level within which measurements fall in the fair value hierarchy (in thousands):

	Quoted Market Prices (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total
<b><u>June 30, 2024</u></b>				
<b>Assets</b>				
Derivative assets:				
Interest rate derivatives - caps	\$ —	\$ 2,177	\$ —	\$ 2,177
<b>Total</b>	<b>\$ —</b>	<b>\$ 2,177</b>	<b>\$ —</b>	<b>\$ 2,177 <sup>(1)</sup></b>
<b>Liabilities</b>				
Derivative liabilities:				
Warrants	\$ —	\$ —	\$ —	\$ — <sup>(2)</sup>
<b>Net</b>	<b>\$ —</b>	<b>\$ 2,177</b>	<b>\$ —</b>	<b>\$ 2,177</b>
	Quoted Market Prices (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total
<b><u>December 31, 2023</u></b>				
<b>Assets</b>				
Derivative assets:				
Interest rate derivatives - caps	\$ —	\$ 2,847	\$ —	\$ 2,847
	<b>\$ —</b>	<b>\$ 2,847</b>	<b>\$ —</b>	<b>\$ 2,847 <sup>(1)</sup></b>
<b>Liabilities</b>				
Derivative liabilities:				
Warrants	\$ —	\$ (12)	\$ —	\$ (12) <sup>(2)</sup>
<b>Net</b>	<b>\$ —</b>	<b>\$ 2,835</b>	<b>\$ —</b>	<b>\$ 2,835</b>

<sup>(1)</sup> Reported as "derivative assets" in our condensed consolidated balance sheets.

<sup>(2)</sup> Reported as "derivative liabilities" in our condensed consolidated balance sheets.

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**Effect of Fair Value Measured Assets and Liabilities on Condensed Consolidated Statements of Operations**

The following table summarizes the effect of fair value measured assets and liabilities on our condensed consolidated statements of operations (in thousands):

	<b>Gain (Loss) Recognized in Income</b>			
	<b>Three Months Ended June 30,</b>		<b>Six Months Ended June 30,</b>	
	<b>2024</b>	<b>2023</b>	<b>2024</b>	<b>2023</b>
<b>Assets</b>				
Derivative assets:				
Interest rate derivatives - caps	\$ 326	\$ 1,013 <sup>(1)</sup>	\$ 1,246	\$ 576
Total	<u>\$ 326</u>	<u>\$ 1,013</u>	<u>\$ 1,246</u>	<u>\$ 576</u>
<b>Liabilities</b>				
Derivative liabilities:				
Warrants	\$ —	\$ 16	\$ 12	\$ 119
Net	<u>\$ 326</u>	<u>\$ 1,029</u>	<u>\$ 1,258</u>	<u>\$ 695</u>
<b>Total combined</b>				
Interest rate derivatives - caps	\$ (1,213)	\$ (1,269)	\$ (1,964)	\$ (3,573)
Warrants	—	16	12	119
Unrealized gain (loss) on derivatives	<u>\$ (1,213) <sup>(1)</sup></u>	<u>\$ (1,253) <sup>(1)</sup></u>	<u>\$ (1,952) <sup>(1)</sup></u>	<u>\$ (3,454) <sup>(1)</sup></u>
Realized gain (loss) on interest rate caps	1,539 <sup>(1) (2)</sup>	2,282 <sup>(1) (2)</sup>	3,210 <sup>(1) (2)</sup>	4,149 <sup>(1) (2)</sup>
Net	<u>\$ 326</u>	<u>\$ 1,029</u>	<u>\$ 1,258</u>	<u>\$ 695</u>

<sup>(1)</sup> Reported in "realized and unrealized gain (loss) on derivatives" in our condensed consolidated statements of operations.

<sup>(2)</sup> Represents settled and unsettled payments from counterparties on interest rate caps.

**9. Summary of Fair Value of Financial Instruments**

Determining the estimated fair values of certain financial instruments such as indebtedness requires considerable judgment to interpret market data. The use of different market assumptions and/or estimation methodologies may have a material effect on the estimated fair value amounts. Accordingly, the estimates presented are not necessarily indicative of the amounts at which these instruments could be purchased, sold or settled.

The carrying amounts and estimated fair values of financial instruments were as follows (in thousands):

	<b>June 30, 2024</b>		<b>December 31, 2023</b>	
	<b>Carrying Value</b>	<b>Estimated Fair Value</b>	<b>Carrying Value</b>	<b>Estimated Fair Value</b>
<b>Financial assets measured at fair value:</b>				
Derivative assets	\$ 2,177	\$ 2,177	\$ 2,847	\$ 2,847
<b>Financial liabilities measured at fair value:</b>				
Derivative liabilities	\$ —	\$ —	\$ 12	\$ 12
<b>Financial assets not measured at fair value:</b>				
Cash and cash equivalents <sup>(1)</sup>	\$ 120,318	\$ 120,318	\$ 85,599	\$ 85,599
Restricted cash <sup>(1)</sup>	60,741	60,741	80,904	80,904
Accounts receivable, net <sup>(1)</sup>	33,998	33,998	39,199	39,199
Due from third-party hotel managers	17,088	17,088	17,739	17,739
<b>Financial liabilities not measured at fair value:</b>				
Indebtedness <sup>(1)</sup>	\$ 1,203,788	\$ 1,165,614	\$ 1,171,459	\$ 1,124,377
Accounts payable and accrued expenses <sup>(1)</sup>	134,781	134,781	149,867	149,867
Dividends and distributions payable	9,333	9,333	9,158	9,158
Due to Ashford Inc. <sup>(1)</sup>	2,744	2,744	1,471	1,471
Due to related parties, net	—	—	603	603
Due to third-party hotel managers <sup>(1)</sup>	1,253	1,253	1,608	1,608

<sup>(1)</sup> Includes balances associated with assets held for sale and liabilities associated with assets held for sale as of June 30, 2024.

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*Cash, cash equivalents and restricted cash.* These financial assets have maturities of less than 90 days and most bear interest at market rates. The carrying value approximates fair value due to their short-term nature. This is considered a Level 1 valuation technique.

*Accounts receivable, net, due to/from related parties, net, accounts payable and accrued expenses, dividends and distributions payable, due to Ashford Inc and due to/from third-party hotel managers.* The carrying values of these financial instruments approximate their fair values due to the short-term nature of these financial instruments. This is considered a Level 1 valuation technique.

*Derivative assets and derivative liabilities.* See notes 7 and 8 for a complete description of the methodology and assumptions utilized in determining fair values.

*Indebtedness, net.* Fair value of indebtedness is determined using future cash flows discounted at current replacement rates for these instruments. Cash flows are determined using a forward interest rate yield curve. The current replacement rates are determined by using the U.S. Treasury yield curve or the index to which these financial instruments are tied, and adjusted for the credit spreads. Credit spreads take into consideration general market conditions, maturity and collateral. We estimated the fair value of the total indebtedness to be approximately 96.8% of the carrying value of \$ 1.2 billion at June 30, 2024, and approximately 96.0% of the carrying value of \$ 1.2 billion at December 31, 2023. These fair value estimates are considered a Level 2 valuation technique.

**10. Income (Loss) Per Share**

The following table reconciles the amounts used in calculating basic and diluted income (loss) per share (in thousands, except per share amounts):

	<b>Three Months Ended June</b>		<b>Six Months Ended June 30,</b>		
	<b>30,</b>	<b>2024</b>	<b>2023</b>	<b>2024</b>	<b>2023</b>
<b>Net income (loss) attributable to common stockholders - basic and diluted:</b>					
Net income (loss) attributable to the Company	\$ (11,565)	\$ (1,846)	\$ 4,364	\$ 14,188	
Less: dividends on preferred stock	(10,329)	(10,877)	(20,736)	(21,227)	
Less: deemed dividends on preferred stock	(26)	(301)	(2,024)	(2,755)	
Less: dividends on common stock	(3,326)	(3,291)	(6,650)	(6,580)	
Less: dividends on unvested performance stock units	(21)	(36)	(42)	(72)	
Less: dividends on unvested restricted shares	—	(8)	—	(17)	
Undistributed net income (loss) allocated to common stockholders	(25,267)	(16,359)	(25,088)	(16,463)	
Add back: dividends on common stock	3,326	3,291	6,650	6,580	
Distributed and undistributed net income (loss) - basic and diluted	<u>\$ (21,941)</u>	<u>\$ (13,068)</u>	<u>\$ (18,438)</u>	<u>\$ (9,883)</u>	
<b>Weighted average common shares outstanding:</b>					
Weighted average common shares outstanding – basic and diluted	<u>66,501</u>	<u>65,806</u>	<u>66,478</u>	<u>68,378</u>	
<b>Income (loss) per share - basic and diluted:</b>					
Net income (loss) allocated to common stockholders per share	<u>\$ (0.33)</u>	<u>\$ (0.20)</u>	<u>\$ (0.28)</u>	<u>\$ (0.14)</u>	

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Due to their anti-dilutive effect, the computation of diluted income (loss) per share does not reflect the adjustments for the following items (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
<b>Net income (loss) allocated to common stockholders is not adjusted for:</b>				
Income (loss) allocated to unvested restricted shares	\$ —	\$ 8	\$ —	\$ 17
Income (loss) allocated to unvested performance stock units	21	36	42	72
Income (loss) attributable to redeemable noncontrolling interests in operating partnership	(1,919)	(925)	(1,623)	(664)
Dividends on preferred stock - Series B	1,058	1,058	2,116	2,116
Interest expense on Convertible Senior Notes	1,124	1,117	2,247	2,231
Dividends on preferred stock - Series E (inclusive of deemed dividends)	7,596	8,162	16,997	17,892
Dividends on preferred stock - Series M (inclusive of deemed dividends)	876	1,133	1,997	2,324
<b>Total</b>	<b>\$ 8,756</b>	<b>\$ 10,589</b>	<b>\$ 21,776</b>	<b>\$ 23,988</b>
<b>Weighted average diluted shares are not adjusted for:</b>				
Effect of unvested performance stock units	39	340	26	346
Effect of assumed conversion of operating partnership units	6,364	5,172	6,133	5,576
Effect of assumed conversion of preferred stock - Series B	4,116	4,116	4,116	4,116
Effect of assumed conversion of Convertible Senior Notes	15,464	13,609	14,537	13,609
Effect of assumed conversion of preferred stock - Series E	162,180	102,751	182,121	101,478
Effect of assumed conversion of preferred stock - Series M	17,098	12,219	19,719	11,945
<b>Total</b>	<b>205,261</b>	<b>138,207</b>	<b>226,652</b>	<b>137,070</b>

#### **11. Redeemable Noncontrolling Interests in Operating Partnership**

Redeemable noncontrolling interests in the operating partnership represents the limited partners' proportionate share of equity and their allocable share of equity in earnings/losses of Braemar OP, which is an allocation of net income/loss attributable to the common unitholders based on the weighted average ownership percentage of these limited partners' common units of limited partnership interest in the operating partnership (the "common units") and units issued under our Long-Term Incentive Plan (the "LTIP units") that are vested. Each common unit may be redeemed, by the holder, for either cash or, at our sole discretion, up to one share of our REIT common stock, which is either: (i) issued pursuant to an effective registration statement; (ii) included in an effective registration statement providing for the resale of such common stock; or (iii) issued subject to a registration rights agreement.

LTIP units, which are issued to certain executives and employees of Ashford LLC as compensation, generally have vesting periods of three years. Additionally, certain independent members of the board of directors have elected to receive LTIP units as part of their compensation, which are fully vested upon grant. Upon reaching economic parity with common units, each vested LTIP unit can be converted by the holder into one common unit which can then be redeemed for cash or, at our election, settled in our common stock. An LTIP unit will achieve parity with the common units upon the sale or deemed sale of all or substantially all of the assets of our operating partnership at a time when our stock is trading at a level in excess of the price it was trading on the date of the LTIP issuance. More specifically, LTIP units will achieve full economic parity with common units in connection with (i) the actual sale of all or substantially all of the assets of our operating partnership; or (ii) the hypothetical sale of such assets, which results from a capital account revaluation, as defined in the partnership agreement, for our operating partnership.

The compensation committee of the board of directors of the Company may authorize the issuance of Performance LTIP units to certain executive officers and directors from time to time. The award agreements provide for the grant of a target number of Performance LTIP units that will be settled in common units of Braemar OP, if, when and to the extent the applicable vesting criteria have been achieved following the end of the performance and service period, which is generally three years from the grant date. The performance awards will be eligible to vest, from 0% to 200% of target, based on achievement of certain performance targets over the three-year performance period. The performance criteria are based on performance conditions under the relevant literature. The corresponding compensation cost is recognized ratably over the service period for the award as the service is rendered, based on the applicable measurement date fair value of the award. The grant date fair value

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of the award may vary from period to period, as the number of performance grants earned may vary since the estimated probable achievement of certain performance targets may vary from period to period.

As of June 30, 2024, there were approximately 1.5 million unvested Performance LTIP units, representing 200% of the target, outstanding.

In May 2024, approximately 45,000 LTIP units were issued to independent directors, with a fair value of approximately \$ 126,000, which vested immediately upon grant and have been expensed during the three and six months ended June 30, 2024.

As of June 30, 2024, we have issued a total of approximately 3.0 million LTIP and Performance LTIP units, net of Performance LTIP cancellations. All LTIP and Performance LTIP units, other than approximately 659,000 LTIP units and 353,000 Performance LTIP units issued from March 2015 to May 2024, had reached full economic parity with, and are convertible into, common units.

The following table presents the redeemable noncontrolling interests in Braemar OP (in thousands) and the corresponding approximate ownership percentage of our operating partnership:

	June 30, 2024	December 31, 2023
Redeemable noncontrolling interests in Braemar OP (in thousands)	\$ 31,579	\$ 32,395
Adjustments to redeemable noncontrolling interests <sup>(1)</sup> (in thousands)	\$ 81	\$ 66
Ownership percentage of operating partnership	8.02 %	6.63 %

<sup>(1)</sup> Reflects the excess of the redemption value over the accumulated historical cost.

We allocated net (income) loss to the redeemable noncontrolling interests as illustrated in the table below (in thousands):

	Three Months Ended June		Six Months Ended June 30,	
	30,		2024	
	2024	2023	2024	2023
Net (income) loss attributable to redeemable noncontrolling interests in operating partnership	\$ 1,919	\$ 925	\$ 1,623	\$ 664
Distributions declared to holders of common units, LTIP units and Performance LTIP units	\$ 368	\$ 361	\$ 734	\$ 722

The following table presents the common units redeemed for cash (in thousands):

	Three Months Ended June		Six Months Ended June 30,	
	30,		2024	
	2024	2023	2024	2023
Units redeemed	—	33	—	1,456
Cash value of common units redeemed	\$ —	\$ 123	\$ —	\$ 7,162 <sup>(1)</sup>

<sup>(1)</sup> Includes Mr. Monty J. Bennett's 1.4 million common units redeemed for cash of approximately \$7.0 million during February 2023.

## 12. Equity and Stock-Based Compensation

**Common Stock Dividends**—The following table summarizes the common stock dividends declared during the period (in thousands):

	Three Months Ended June		Six Months Ended June 30,	
	30,		2024	
	2024	2023	2024	2023
Common stock dividends declared	\$ 3,347	\$ 3,335	\$ 6,692	\$ 6,669

**Restricted Stock**—We incur stock-based compensation expense in connection with restricted stock awarded to certain employees of Ashford LLC and its affiliates. We also issue common stock to certain of our independent directors, which vests immediately upon issuance.

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In May 2024, approximately 45,000 shares of common stock were issued to independent directors with a fair value of approximately \$ 126,000, which vested immediately upon grant and have been expensed during the three and six months ended June 30, 2024.

**Performance Stock Units**—The compensation committee of the board of directors of the Company may authorize the issuance of grants of performance stock units ("PSUs") to certain executive officers and directors from time to time. The award agreements provide for the grant of a target number of PSUs that will be settled in shares of common stock of the Company, if, when and to the extent the applicable vesting criteria have been achieved following the end of the performance and service period, which is generally three years from the grant date. The compensation committee utilizes a performance metric, pursuant to which, the performance awards will be eligible to vest, from 0% to 200% of target, based on achievement of certain performance targets over the three-year performance period. The performance criteria are based on performance conditions under the relevant literature and were issued to non-employees. The corresponding compensation cost is recognized ratably over the service period for the award as the service is rendered, based on the corresponding measurement date fair value of the award, which may vary from period to period, as the number of performance grants earned may vary since the estimated probable achievement of certain performance targets may vary from period to period.

**8.25% Series D Cumulative Preferred Stock**—The Series D Preferred Stock dividend for all issued and outstanding shares is set at \$ 2.0625 per annum per share.

The following table summarizes dividends declared (in thousands):

	Three Months Ended June		Six Months Ended June 30,	
	30,			
	2024	2023	2024	2023
Series D Cumulative Preferred Stock	\$ 825	\$ 825	\$ 1,650	\$ 1,650

**Stock Repurchases**—On May 3, 2024, the board of directors approved a new share repurchase program pursuant to which the board of directors granted a repurchase authorization to acquire shares of the Company's common stock, par value \$0.01 per share, having an aggregate value of up to \$50 million. As of June 30, 2024, the Company has not repurchased any common stock.

### 13. Redeemable Preferred Stock

#### 5.50% Series B Cumulative Convertible Preferred Stock

Each share of our 5.50% Series B Cumulative Convertible Preferred Stock (the "Series B Convertible Preferred Stock") is convertible at any time, at the option of the holder, into a number of whole shares of common stock at a conversion price of \$18.70 (which represents a conversion rate of 1.3372 shares of our common stock, subject to certain adjustments). The Series B Convertible Preferred Stock is also subject to conversion upon certain events constituting a change of control. Holders of the Series B Convertible Preferred Stock have no voting rights, subject to certain exceptions. The Series B Convertible Preferred Stock dividend for all issued and outstanding shares is set at \$1.375 per annum per share.

The Company may, at its option, cause the Series B Convertible Preferred Stock to be converted in whole or in part, on a pro-rata basis, into fully paid and nonassessable shares of the Company's common stock at the conversion price, provided that the "Closing Bid Price" (as defined in the Articles Supplementary) of the Company's common stock shall have equaled or exceeded 110% of the conversion price for the immediately preceding 45 consecutive trading days ending three days prior to the date of notice of conversion.

Additionally, the Series B Convertible Preferred Stock contains cash redemption features that consist of: 1) an optional redemption in which on or after June 11, 2020, the Company may redeem shares of the Series B Convertible Preferred Stock, in whole or in part, for cash at a redemption price of \$25.00 per share, plus any accumulated, accrued and unpaid dividends; 2) a special optional redemption, in which on or prior to the occurrence of a Change of Control (as defined in the Articles Supplementary), the Company may redeem shares of the Series B Convertible Preferred Stock, in whole or in part, for cash at a redemption price of \$25.00 per share; and 3) a "REIT Termination Event" and "Listing Event Redemption," in which at any time (i) a REIT Termination Event (as defined below) occurs or (ii) the Company's common stock fails to be listed on the NYSE, NYSE American, or NASDAQ, or listed or quoted on an exchange or quotation system that is a successor thereto (each, a "National Exchange"), the holder of Series B Convertible Preferred Stock shall have the right to require the Company to

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redeem any or all shares of Series B Convertible Preferred Stock at 103% of the liquidation preference (\$25.00 per share, plus any accumulated, accrued, and unpaid dividends) in cash.

A "REIT Termination Event," shall mean the earliest of:

- (i) filing of a federal income tax return where the Company does not compute its income as a REIT;
- (ii) stockholders' approval on ceasing to be qualified as a REIT;
- (iii) board of directors' approval on ceasing to be qualified as a REIT;
- (iv) board's determination based on the advice of counsel to cease to be qualified as a REIT; or
- (v) determination within the meaning of Section 1313(a) of the Code to cease to be qualified as a REIT.

Series B Convertible Preferred Stock does not meet the requirements for permanent equity classification prescribed by the authoritative guidance because of certain cash redemption features that are outside our control. As such, the Series B Convertible Preferred Stock is classified outside of permanent equity.

The following table summarizes dividends declared (in thousands):

	Three Months Ended June		Six Months Ended June 30,	
	30,		2024	
	2024	2023	2024	2023
Series B Convertible Preferred Stock	\$ 1,058	\$ 1,058	\$ 2,116	\$ 2,116

**Series E Redeemable Preferred Stock**

On April 2, 2021, the Company entered into equity distribution agreements with certain sales agents to sell, from time to time, shares of the Series E Redeemable Preferred Stock (the "Series E Preferred Stock"). Pursuant to such equity distribution agreements, the Company offered a maximum of 20,000,000 shares of Series E Preferred Stock in a primary offering at a price of \$ 25.00 per share. On February 21, 2023, the Company announced the closing of its Series E Preferred Stock offering. The Company is also offering a maximum of 8,000,000 shares of the Series E Preferred Stock pursuant to a dividend reinvestment plan (the "DRIP") at \$25.00 per share (the "Stated Value").

The Series E Preferred Stock ranks senior to all classes or series of the Company's common stock and future junior securities, on a parity with each series of the Company's outstanding preferred stock (the Series B Convertible Preferred stock, the Series D Preferred Stock and the Series M Preferred Stock (as defined below)) and with any future parity securities and junior to future senior securities and to all of the Company's existing and future indebtedness, with respect to the payment of dividends and the distribution of amounts upon liquidation, dissolution or winding up of the Company's affairs.

Holders of the Series E Preferred Stock shall have the right to vote for the election of directors of the Company and on all other matters requiring stockholder action by the holders of the common stock, each share being entitled to vote to the same extent as one share of the Company's common stock, and all such shares voting together as a single class. If and whenever dividends on any shares of the Series E Preferred Stock shall be in arrears for 18 or more monthly periods, whether or not such quarterly periods are consecutive, the number of directors then constituting the board shall be increased by two and the holders of such shares of Series E Preferred Stock (voting together as a single class with all other classes or series of capital stock ranking on a parity with the Series E Preferred Stock) shall be entitled to vote for the election of the additional directors of the Company who shall each be elected for one-year terms.

Each share is redeemable at any time, at the option of the holder, at a redemption price of \$ 25.00 per share, plus any accumulated, accrued and unpaid dividends, less a redemption fee. Starting on the second anniversary, each share is redeemable at any time, at the option of the Company, at a redemption price of \$25.00 per share, plus any accumulated, accrued and unpaid dividends (with no redemption fee). The Series E Preferred Stock is also subject to conversion upon certain events constituting a change of control. Upon such change of control events, holders have the option to convert their shares of Series E Preferred Stock into a maximum of 5.69476 shares of our common stock.

The redemption fee shall be an amount equal to:

- 8.0% of the stated value of \$25.00 per share (the "Stated Value") beginning on the Original Issue Date (as defined in the Articles Supplementary) of the shares of the Series E Preferred Stock to be redeemed;
- 5.0% of the Stated Value beginning on the second anniversary from the Original Issue Date of the shares of the Series E Preferred Stock to be redeemed; and

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- 0% of the Stated Value beginning on the third anniversary from the Original Issue Date of the shares of the Series E Preferred Stock to be redeemed.

The Company has the right, in its sole discretion, to redeem the shares in cash, or in an equal number of shares of common stock or any combination thereof, calculated based on the closing price per share for the single trading day prior to the date of redemption.

The Series E Preferred Stock cash dividends are as follows:

- 8.00% per annum of the Stated Value beginning on the date of the first settlement of the Series E Preferred Stock (the "Date of Initial Closing");
- 7.75% per annum of the Stated Value beginning on the first anniversary from the Date of Initial Closing; and
- 7.50% per annum of the Stated Value beginning on the second anniversary from the Date of Initial Closing.

Dividends are payable on a monthly basis in arrears on the 15th day of each month (or, if such payment date is not a business day, the next succeeding business day) to holders of record at the close of business on the last business day of each month immediately preceding the applicable dividend payment date. Dividends will be computed on the basis of twelve 30-day months and a 360-day year.

The Company has a DRIP that allows participating holders to have their Series E Preferred Stock dividend distributions automatically reinvested in additional shares of the Series E Preferred Stock at a price of \$25.00 per share.

The issuance activity of the Series E Preferred Stock is summarized below (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Series E Preferred Stock shares issued <sup>(1)</sup>	—	—	—	3,798
Net proceeds <sup>(1)</sup>	\$ —	\$ —	\$ —	\$ 85,444

<sup>(1)</sup> Exclusive of shares issued under the DRIP.

The Series E Preferred Stock does not meet the requirements for permanent equity classification prescribed by the authoritative guidance because of certain cash redemption features that are outside of the Company's control. As such, the Series E Preferred Stock is classified outside of permanent equity.

At the date of issuance, the carrying amount of the Series E Preferred Stock was less than the redemption value. As a result of the Company's determination that redemption is probable, the carrying value will be adjusted to the redemption amount each reporting period.

The redemption value adjustment of Series E Preferred Stock is summarized below (in thousands):

	June 30, 2024	December 31, 2023
Series E Preferred Stock	\$ 374,847	\$ 377,035
Cumulative adjustments to Series E Preferred Stock <sup>(1)</sup>	\$ 15,164	\$ 13,337

<sup>(1)</sup> Reflects the excess of the redemption value over the accumulated carrying value.

The following table summarizes dividends declared (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Series E Preferred Stock	\$ 7,570	\$ 7,986	\$ 15,170	\$ 15,520

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The redemption activities of Series E Preferred Stock is summarized below (in thousands):

	Three Months Ended June		Six Months Ended June 30,	
	30,		2024	
	2024	2023	2024	2023
Series E Preferred Stock shares redeemed	53	21	239	32
Redemption amount, net of redemption fees	\$ 1,249	\$ 507	\$ 5,652	\$ 789

**Series M Redeemable Preferred Stock**

On April 2, 2021, the Company entered into equity distribution agreements with certain sales agents to sell, from time to time, shares of the Series M Redeemable Preferred Stock (the "Series M Preferred Stock"). Pursuant to such equity distribution agreements, the Company offered a maximum of 20,000,000 shares of the Series M Preferred Stock (par value \$ 0.01) in a primary offering at a price of \$25.00 per share (or "Stated Value"). On February 21, 2023, the Company announced the closing of its Series M Preferred Stock offering. The Company is also offering a maximum of 8,000,000 shares of Series M Preferred Stock pursuant to the DRIP at \$25.00 per share.

The Series M Preferred Stock ranks senior to all classes or series of the Company's common stock and future junior securities, on a parity with each series of the Company's outstanding preferred stock (the Series B Convertible Preferred Stock, the Series D Preferred Stock and the Series E Preferred Stock) and with any future parity securities and junior to future senior securities and to all of the Company's existing and future indebtedness, with respect to the payment of dividends and the distribution of amounts upon liquidation, dissolution or winding up of the Company's affairs.

Holders of the Series M Preferred Stock shall have the right to vote for the election of directors of the Company and on all other matters requiring stockholder action by the holders of the common stock, each share being entitled to vote to the same extent as one share of the Company's common stock, and all such shares voting together as a single class. If and whenever dividends on any shares of Series M Preferred Stock shall be in arrears for 18 or more monthly periods, whether or not such quarterly periods are consecutive, the number of directors then constituting the board shall be increased by two and the holders of such shares of Series M Preferred Stock (voting together as a single class with all other classes or series of capital stock ranking on a parity with the Series M Preferred Stock) shall be entitled to vote for the election of the additional directors of the Company who shall each be elected for one-year terms.

Each share is redeemable at any time, at the option of the holder, at a redemption price of \$ 25.00 per share, plus any accumulated, accrued and unpaid dividends, less a redemption fee. Starting on the second anniversary, each share is redeemable at any time, at the option of the Company, at a redemption price of \$25.00 per share, plus any accumulated, accrued and unpaid dividends (with no redemption fee). The Series M Preferred Stock is also subject to conversion upon certain events constituting a change of control. Upon such change of control events, holders have the option to convert their shares of Series M Preferred Stock into a maximum of 5.69476 shares of our common stock.

The redemption fee shall be an amount equal to:

- 1.5% of the Stated Value of \$ 25.00 per share beginning on the Series M Original Issue Date (as defined in the Articles Supplementary) of the shares of Series M Preferred Stock to be redeemed; and
- 0% of the Stated Value beginning on the first anniversary from the Series M Original Issue Date of the shares of Series M Preferred Stock to be redeemed.

The Company has the right, in its sole discretion, to redeem the shares in cash, or in an equal number of shares of common stock or any combination thereof, calculated based on the closing price per share for the single trading day prior to the date of redemption.

Holders of Series M Preferred Stock are entitled to receive cumulative cash dividends at the initial rate of 8.2% per annum of the Stated Value of \$25.00 per share (equivalent to an annual dividend rate of \$ 2.05 per share). Beginning one year from the date of original issuance of each share of Series M Preferred Stock and on each one-year anniversary thereafter for such share of Series M Preferred Stock, the dividend rate shall increase by 0.10% per annum; provided, however, that the dividend rate for any share of Series M Preferred Stock shall not exceed 8.7% per annum of the Stated Value.

Dividends are payable on a monthly basis and in arrears on the 15th day of each month (or, if such payment date is not a business day, on the next succeeding business day) to holders of record at the close of business on the last business day of each

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month immediately preceding the applicable dividend payment date. Dividends will be computed on the basis of twelve 30-day months and a 360-day year.

The Company has a DRIP that allows participating holders to have their Series M Preferred Stock dividend distributions automatically reinvested in additional shares of the Series M Preferred Stock at a price of \$25.00 per share.

The issuance activity of Series M Preferred Stock is summarized below (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Series M Preferred Stock shares issued <sup>(1)</sup>	—	—	—	531
Net proceeds <sup>(1)</sup>	\$ —	\$ —	\$ —	\$ 12,869

<sup>(1)</sup> Exclusive of shares issued under the DRIP.

The Series M Preferred Stock does not meet the requirements for permanent equity classification prescribed by the authoritative guidance because of certain cash redemption features that are outside the Company's control. As such, the Series M Preferred Stock is classified outside of permanent equity.

At the date of issuance, the carrying amount of the Series M Preferred Stock was less than the redemption value. As a result of the Company's determination that redemption is probable, the carrying value will be adjusted to the redemption amount each reporting period.

The redemption value adjustment of Series M Preferred stock is summarized below (in thousands):

	June 30, 2024	December 31, 2023
Series M Preferred Stock	\$ 40,569	\$ 45,623
Cumulative adjustments to Series M Preferred Stock <sup>(1)</sup>	\$ 1,794	\$ 1,597

<sup>(1)</sup> Reflects the excess of the redemption value over the accumulated carrying value.

The following table summarizes dividends declared (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Series M Preferred Stock	\$ 876	\$ 1,008	\$ 1,800	\$ 1,941

The redemption activities of Series M Preferred Stock is summarized below (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Series M Preferred Stock shares redeemed	126	4	213	5
Redemption amount, net of redemption fees	\$ 3,159	\$ 90	\$ 5,322	\$ 115

#### **14. Related Party Transactions**

##### **Ashford Inc.**

###### **Advisory Agreement**

Ashford LLC, a subsidiary of Ashford Inc., acts as our advisor. Our chairman, Mr. Monty Bennett, also serves as chairman of the board of directors and chief executive officer of Ashford Inc. Under our advisory agreement, we pay advisory fees to Ashford LLC. We pay a monthly base fee equal to 1/12 of the sum of (i) 0.70% of the total market capitalization of our company for the prior month, plus (ii) the Net Asset Fee Adjustment (as defined in our advisory agreement), if any, on the last day of the prior month during which our advisory agreement was in effect; provided, however, in no event shall the base fee for

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any month be less than the minimum base fee as provided by our advisory agreement. The base fee is payable on the fifth business day of each month.

The minimum base fee for Braemar for each month will be equal to the greater of:

- 90% of the base fee paid for the same month in the prior year; and
- 1/12 of the G&A Ratio (as defined) multiplied by the total market capitalization of Braemar.

We are also required to pay Ashford LLC an incentive fee that is measured annually (or for a stub period if the advisory agreement is terminated at other than year-end). Each year that our annual total stockholder return exceeds the average annual total stockholder return for our peer group, we pay Ashford LLC an incentive fee over the following three years, subject to the Fixed Charge Coverage Ratio ("FCCR") Condition, as defined in the advisory agreement, which relates to the ratio of adjusted EBITDA to fixed charges. We also reimburse Ashford LLC for certain reimbursable overhead and internal audit, risk management advisory and asset management services, as specified in the advisory agreement. We also recorded equity-based compensation expense for equity grants of common stock, PSUs and LTIP units awarded to officers and employees of Ashford LLC in connection with providing advisory services.

The following table summarizes the advisory services fees incurred (in thousands):

	Three Months Ended June		Six Months Ended June	
	30,		30,	
	2024	2023	2024	2023
<b>Advisory services fee</b>				
Base advisory fee	\$ 3,336	\$ 3,667	\$ 6,663	\$ 7,307
Reimbursable expenses <sup>(1)</sup>	2,961	2,042	5,226	4,064
Equity-based compensation <sup>(2)</sup>	883	2,506	1,991	4,792
Incentive fee	648	—	648	—
<b>Total</b>	<b>\$ 7,828</b>	<b>\$ 8,215</b>	<b>\$ 14,528</b>	<b>\$ 16,163</b>

<sup>(1)</sup> Reimbursable expenses include overhead, internal audit, risk management advisory, asset management services and deferred cash awards.

<sup>(2)</sup> Equity-based compensation is associated with equity grants of Braemar's common stock, PSUs, LTIP units and Performance LTIP units awarded to officers and employees of Ashford LLC.

On September 27, 2022, an agreement was entered into by Ashford Inc., Ashford Trust and Braemar pursuant to which the Advisor is to implement the REITs' cash management strategies. This includes actively managing the REITs excess cash by primarily investing in short-term U.S. Treasury securities. The annual fee is equal to the lesser of (i) 20 bps of the average daily balance of the funds managed by the Advisor and (ii) the actual rate of return realized by the cash management strategies; provided that in no event will the cash management fee be less than zero. The fee is payable monthly in arrears.

On March 2, 2023, the Company entered into a Limited Waiver Under Advisory Agreement (the "2023 Limited Waiver") with Braemar OP, Braemar TRS and its Advisor. Pursuant to the 2023 Limited Waiver, the Company, Braemar OP, Braemar TRS and the Company's Advisor waived the operation of any provision in the advisory agreement that would otherwise limit our ability, in our discretion and at our cost and expense, to award during the first and second fiscal quarters of calendar year 2023, cash incentive compensation to employees and other representatives of the Advisor.

On March 11, 2024, we entered into a Limited Waiver Under Advisory Agreement with Ashford Inc. and Ashford LLC (the "Advisory Agreement Limited Waiver"). Pursuant to the Advisory Agreement Limited Waiver, the Company, the Operating Partnership, TRS and the Advisor waive the operation of any provision in our advisory agreement that would otherwise limit the ability of the Company in its discretion, at the Company's cost and expense, to award during calendar year 2024, cash incentive compensation to employees and other representatives of the Advisor.

Pursuant to the Company's hotel management agreements with each hotel management company, the Company bears the economic burden for casualty insurance coverage. Under the advisory agreement, Ashford Inc. secures casualty insurance policies to cover Ashford Trust, Braemar, Stirling OP, their hotel managers, as needed, and Ashford Inc. The total loss estimates included in such policies are based on the collective pool of risk exposures from each party. Ashford Inc. has managed the casualty insurance program and beginning in December 2023, Warwick Insurance Company ("Warwick"), a subsidiary of Ashford Inc., provides and manages the general liability, workers' compensation and business automobile insurance policies within the casualty insurance program. Each year Ashford Inc. collects funds from Ashford Trust, Braemar,

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Stirling OP and their respective hotel management companies, to fund the casualty insurance program as needed, on an allocated basis .

***Lismore***

We engage Lismore or its subsidiaries to provide debt placement services and assist with loan modifications or refinancings on our behalf and brokerage services. For the three and six months ended June 30, 2024, we incurred fees of \$50,000 and \$1.1 million, respectively. We incurred fees from Lismore or its subsidiaries of \$98,000 for both three and six months ended June 30, 2023.

***Ashford Securities***

On December 31, 2020, an Amended and Restated Contribution Agreement (the "Amended and Restated Contribution Agreement") was entered into by Ashford Inc., Ashford Trust and Braemar (collectively, the "Parties" and each individually a "Party") with respect to funding certain expenses of Ashford Securities LLC, a subsidiary of Ashford Inc. ("Ashford Securities"). Beginning on the effective date of the Amended and Restated Contribution Agreement, costs were allocated based upon an allocation percentage of 50% to Ashford Inc., 50% to Braemar and 0% to Ashford Trust. Upon reaching the earlier of \$400 million in aggregate capital raised, or June 10, 2023, there was to be a true-up (the "Amended and Restated True-Up Date") among Ashford Inc., Ashford Trust and Braemar whereby the actual amount contributed by each company was based on the actual amount of capital raised by Ashford Inc., Ashford Trust and Braemar, respectively, through Ashford Securities (the resulting ratio of contributions among the Parties, the "Initial True-up Ratio"). On January 27, 2022, Ashford Trust, Braemar and Ashford Inc. entered into a Second Amended and Restated Contribution Agreement which provided for an additional \$18 million in expenses to be reimbursed, with all expenses allocated 45% to Ashford Trust, 45% to Braemar and 10% to Ashford Inc.

On February 1, 2023, Braemar entered into a Third Amended and Restated Contribution Agreement, which provided that after the Amended and Restated True-Up Date, capital contributions for the remainder of fiscal year 2023 would be divided between each Party based on the Initial True-Up Ratio, there would be a true up reflecting amounts raised by Ashford Securities since June 10, 2019, and thereafter, the capital contributions would be divided among each Party in accordance with the cumulative ratio of capital raised by the Parties.

Effective January 1, 2024, Braemar entered into a Fourth Amended and Restated Contribution Agreement with Ashford Inc. and Ashford Trust, which states that, notwithstanding anything in the prior contribution agreements: (1) the Parties equally split responsibility for all aggregate contributions made by them to Ashford Securities through September 30, 2021 and (2) thereafter, their contributions for each quarter will be based on the ratio of the amounts raised by each Party through Ashford Securities in the prior quarter compared to the total aggregate amount raised by the Parties through Ashford Securities the prior quarter. To the extent contributions made by any of the Parties through December 31, 2023 differed from the amounts owed pursuant to the foregoing, the Parties shall make true up payments to each other to settle the difference. During the first quarter of 2024, the funding requirement was revised based on the aggregate capital raised through Ashford Securities. This resulted in Braemar receiving a payment of approximately \$5.9 million from Ashford Inc., which resulted in a credit to expense of approximately \$ 5.6 million that is included in "corporate general and administrative" on the condensed consolidated statements of operations for the six months ended June 30, 2024.

As of June 30, 2024, Braemar has funded approximately \$12.9 million and has a pre-funded balance of \$1.9 million that is included in "other assets" on the condensed consolidated balance sheet.

As of December 31, 2023, Braemar had funded approximately \$ 20.9 million and had a pre-funded balance of approximately \$693,000 included in "other assets" and a receivable of approximately \$3.5 million included in "due to Ashford Inc., net" on the consolidated balance sheet. During the first quarter of 2024 there was also a true-up of the capital contributions in accordance with the Third Amended and Restated Contribution Agreement made through December 31, 2023, which resulted in a payment of \$3.5 million from Ashford Inc.

The table below summarizes the amount Braemar has expensed related to reimbursed operating expenses of Ashford Securities (in thousands):

Line Item	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Corporate, general and administrative	\$ —	\$ 1,024	\$ (5,624)	\$ 2,219

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(unaudited)

**Design and Construction Services**

Premier Project Management LLC ("Premier"), a subsidiary of Ashford Inc., provides design and construction services to our hotels, including construction management, interior design, architectural services, and the purchasing, freight management and supervision of installation of FF&E and related services. Pursuant to the design and construction services agreement, we pay Premier: (a) design and construction fees of up to 4% of project costs; and (b) for the following services: (i) architectural (6.5% of total construction costs); (ii) construction management for projects without a general contractor (10% of total construction costs); (iii) interior design (6% of the purchase price of the FF&E designed or selected by Premier); and (iv) FF&E purchasing (8% of the purchase price of FF&E purchased by Premier; provided that if the purchase price exceeds \$ 2.0 million for a single hotel in a calendar year, then the purchasing fee is reduced to 6% of the FF&E purchase price in excess of \$ 2.0 million for such hotel in such calendar year). Such fees are payable monthly as the service is delivered based on percentage complete, as reasonably determined by Premier for each service, or payable as set forth in other agreements.

**Hotel Management Services**

At June 30, 2024, Remington Hospitality managed four of our 16 hotel properties.

We pay monthly hotel management fees equal to the greater of approximately \$ 17,000 per hotel (increased annually based on consumer price index adjustments) or 3% of gross revenues, as well as annual incentive management fees, if certain operational criteria were met, and other general and administrative expense reimbursements primarily related to accounting services.

**15. Commitments and Contingencies**

**Restricted Cash**—Under certain management and debt agreements for our hotel properties existing at June 30, 2024, escrow payments are required for insurance, real estate taxes and debt service. In addition, for certain properties based on the terms of the underlying debt and management agreements, we escrow 3% to 5% of gross revenues for capital improvements.

**Franchise Fees**—We currently have one hotel property that operates under a franchise agreement with a 25-year term. The term begins upon the completion of conversion of the Cameo Beverly Hills. Under the terms of the agreement we will pay (i) 3% of gross rooms revenue for the preceding calendar month during the first three years of the agreement; (ii) 4% of gross rooms revenue for the preceding calendar month during year 4; and (iii) 5% of the gross rooms revenue for the preceding calendar month for the remainder of the term. As of June 30, 2024, we are currently paying 3% of gross revenues.

The table below summarizes the franchise fees incurred (in thousands):

Line Item	Three Months Ended June		Six Months Ended June 30,	
	2024	2023	2024	2023
Other hotel expenses	\$ 94	\$ —	\$ 174	\$ —

**Management Fees**—Under hotel management agreements for our hotel properties existing at June 30, 2024, we pay a monthly hotel management fee equal to the greater of approximately \$17,000 per hotel (increased annually based on consumer price index adjustments) or 3% of gross revenues, or in some cases 3.0% to 5.0% of gross revenues, as well as annual incentive management fees, if applicable. These management agreements expire from November 2029 through December 2065, with renewal options. If we terminate a management agreement prior to its expiration, we may be liable for estimated management fees through the remaining term, liquidated damages or, in certain circumstances, we may substitute a new management agreement.

**Income Taxes**—We and our subsidiaries file income tax returns in the federal jurisdiction and various states. Tax years 2019 through 2023 remain subject to potential examination by certain federal and state taxing authorities.

**Litigation**—On December 20, 2016, a class action lawsuit was filed against one of the Company's hotel management companies in the Superior Court of the State of California in and for the County of Contra Costa alleging violations of certain California employment laws, which class action affects two hotels owned by subsidiaries of the Company. The court has entered an order granting class certification with respect to: (i) a statewide class of non-exempt employees of our manager who were allegedly deprived of rest breaks as a result of our manager's previous written policy requiring its employees to stay on premises during rest breaks; and (ii) a derivative class of non-exempt former employees of our manager who were not paid for allegedly missed breaks upon separation from employment. Notices to potential class members were sent out on February 2,

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (continued)**  
**(unaudited)**

2021. Potential class members had until April 4, 2021 to opt-out of the class; however, the total number of employees in the class has not been definitively determined and is the subject of continuing discovery. The opt-out period has been extended until such time that discovery has concluded. In May 2023, the trial court requested additional briefing from the parties to determine whether the case should be maintained, dismissed, or the class de-certified. After submission of the briefs, the court requested that the parties submit stipulations for the court to rule upon. On February 13, 2024, the judge ordered the parties to submit additional briefing related to on-site breaks. While we believe it is reasonably possible that we may incur a loss associated with this litigation, because there remains uncertainty under California law with respect to a significant legal issue, discovery relating to class members continues, and the trial judge retains discretion to award lower penalties than set forth in the applicable California employment laws, we do not believe that any potential loss to the Company is reasonably estimable at this time. As of June 30, 2024, no amounts have been accrued.

On June 8, 2022, a lawsuit was filed against various Hilton entities on behalf of a class of all hourly employees at all Hilton-branded managed properties in California, including Hilton La Jolla Torrey Pines. The complaint includes claims for unpaid wages, meal and rest break violations, and unreimbursed business expenses, along with various derivative claims including wage statement, final pay, and Private Attorneys General Act ("PAGA") claims.

On November 30, 2023, Hilton mediated this litigation, but it did not result in a settlement. At the end of the mediation, the mediator submitted a mediator's proposal for approximately \$3.5 million, which the parties have since agreed to. The allocation to Hilton La Jolla Torrey Pines is approximately \$371,000, which has been accrued as of June 30, 2024.

We are also engaged in other legal proceedings that have arisen but have not been fully adjudicated. To the extent the claims giving rise to these legal proceedings are not covered by insurance, they relate to the following general types of claims: employment matters, tax matters and matters relating to compliance with applicable law (for example, the Americans with Disabilities Act and similar state laws). The likelihood of loss from these legal proceedings is based on the definitions within contingency accounting literature. We recognize a loss when we believe the loss is both probable and reasonably estimable. Based on the information available to us relating to these legal proceedings and/or our experience in similar legal proceedings, we do not believe the ultimate resolution of these proceedings, either individually or in the aggregate, will have a material adverse effect on our consolidated financial position, results of operations or cash flow.

During the quarter ended September 30, 2023, we had a cyber incident that resulted in the potential exposure of certain employee personal information. We have completed an investigation and have identified certain employee information that may have been exposed, but we have not identified that any customer information was exposed. All systems have been restored. We believe that we maintain a sufficient level of insurance coverage related to such events, and the related incremental costs incurred to date are immaterial. In February of 2024, two class action lawsuits were filed, one in the U.S. District Court for the Northern District of Texas and a second in the 68th District Court for Dallas County related to the cyber incident. The lawsuit filed in the 68th District Court was subsequently dismissed and refiled in the U.S. District Court for the Northern District of Texas. On March 12, 2024, the court ordered the two cases be consolidated. The consolidated case is currently pending in the U.S. District Court for the Northern District of Texas. On May 17, 2024, we filed a Motion to Dismiss the Consolidated Class Action Complaint, which is currently pending before the Court. We intend to vigorously defend this matter and do not believe that any potential loss is reasonably estimable at this time. It is reasonably possible that the Company may incur additional costs related to the matter, but we are unable to predict with certainty the ultimate amount or range of potential loss.

Our assessment may change depending upon the development of any current or future legal proceedings, and the final results of such legal proceedings cannot be predicted with certainty. If we ultimately do not prevail in one or more of these legal matters, and the associated realized losses exceed our current estimates of the range of potential losses, our consolidated financial position, results of operations, or cash flows could be materially adversely affected in future periods.

#### **16. Segment Reporting**

We operate in one business segment within the hotel lodging industry: direct hotel investments. Direct hotel investments refers to owning hotel properties through either acquisition or new development. We report operating results of direct hotel investments on an aggregate basis as substantially all of our hotel investments have similar economic characteristics and exhibit similar long-term financial performance. As of June 30, 2024 and December 31, 2023, all of our hotel properties were in the U.S. and its territories.

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (continued)**  
**(unaudited)**

**17. Subsequent Events**

In February 2024, the Company and Ashford Inc. approved funding up to an additional \$ 1.0 million, in the aggregate, for OpenKey, allocated pro rata among them. On July 1, 2024, the Company funded \$79,000.

**Blackwells Capital**

On July 2, 2024, Braemar, Ashford Trust and Ashford Inc. (collectively with the Company, Ashford Trust and each of Ashford Inc.'s, the Company's and Ashford Trust's respective affiliates (including Stirling Hotels & Resorts, Inc.) and any entity advised by Ashford Inc., the "Company Group") entered into a Cooperation Agreement (the "Agreement") with Blackwells Capital LLC, Blackwells Onshore I LLC, Blackwells Holding Co. LLC, Vandewater Capital Holdings, LLC, Blackwells Asset Management LLC, BW Coinvest Management I LLC and Jason Aintabi (collectively, the "Blackwells Parties") regarding the withdrawal of the Blackwells Parties' proxy campaign, dismissal of pending litigation involving the parties and certain other matters.

Pursuant to the Agreement, the Blackwells Parties have agreed to withdraw (i) the notice delivered to the Company on March 10, 2024 purporting to nominate four director candidates to the Company's board of directors (the "Board") and make certain other proposals and (ii) the definitive proxy statement filed with the U.S. Securities and Exchange Commission (the "SEC") on April 3, 2024 to solicit proxies from stockholders of the Company to vote in favor of the Blackwells Parties' director nominees and proposals. In connection therewith, the Blackwells Parties will cease to take any further action with respect to the Company's 2024 Annual Meeting of Stockholders, except as otherwise provided for in the Agreement.

The Blackwells Parties have also agreed to specified standstill restrictions with respect to the Company Group, which will expire on July 2, 2034. During the standstill period, the Blackwells Parties are required to (i) appear in person or by proxy at each meeting of stockholders of the members of the Company Group in which they beneficially own shares of stock and vote any Blackwells Parties' shares then beneficially owned by them in accordance with the recommendation of the board of directors of such member of the Company Group on any proposals considered at such meeting and (ii) deliver consents or consent revocations in any action by written consent by stockholders of any member of the Company Group in which they beneficially own shares in accordance with the recommendation of the board of directors of such member of the Company Group.

The Agreement also provides for the voluntary dismissal, with prejudice, of the consolidated action pending in the U.S. District Court for the Northern District of Texas to which the Company, Blackwells Capital LLC and certain of their respective related parties are parties (the "Consolidated Litigation"). The Company has agreed to reimburse Blackwells Capital LLC, in an amount agreed upon by the parties, for the Blackwells Parties' reasonable attorneys' fees and expenses incurred in connection with the Consolidated Litigation and related matters.

Additionally, pursuant to the Agreement, the Board will take steps to identify and select one additional individual to be appointed to the Board as an independent director (the "Additional Board Member"). The Board is required to promptly notify Blackwells Capital LLC of its selection of the Additional Board Member and to consider any input Blackwells Capital LLC may have with respect to the Additional Board Member.

The Agreement contains various other obligations and provisions applicable to the Company Group and the Blackwells Parties, including a mutual release of claims and mutual non-disparagement.

Concurrently and in connection with the Agreement, certain of the parties thereto have also entered into a Share Ownership Agreement (the "Share Ownership Agreement") and a Loan Agreement (the "Loan Agreement"), pursuant to which agreements the Company will provide to BW Coinvest I, LLC ("Borrower") an unsecured loan (the "Loan"). The proceeds from the Loan will be used to reimburse Borrower for 70% of the amount expended by Borrower to purchase on the open market a total of 3,500,000 shares of the Company's common stock (the "Purchased Shares") within six months of the date of Loan Agreement, at a price per Purchased Share not to exceed \$10 and subject to the other limitations set forth therein. The Loan has a term of five years (the "Term"), is guaranteed by Jason Aintabi, Vandewater Capital Holdings, LLC, Blackwells Holding Co. LLC, and Blackwells Asset Management LLC and shall bear payment-in-kind interest during the Term at a rate equal to the sum of (a) Term SOFR (as defined in the Loan Agreement) and (b) 3.00% (three hundred basis points) per annum. The Company has agreed to reimburse Blackwells Capital LLC, in an amount agreed upon by the parties, for the Blackwells Parties' reasonable due diligence expenses incurred on or prior to the date of the Share Ownership Agreement. As of August 7, 2024, the Company has loaned approximately \$4.1 million that has been used to purchase approximately 1.7 million shares of Braemar common stock.

**BRAEMAR HOTELS & RESORTS INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (continued)**  
**(unaudited)**

**Hilton La Jolla Torrey Pines**

On July 17, 2024, we sold the Hilton La Jolla Torrey Pines hotel pursuant to an Agreement of Purchase and Sale, entered into effective May 6, 2024, for \$165 million in cash, subject to customary pro-rations and adjustments. The Company owned an indirect 75% equity interest in the hotel property. Additionally, the Company repaid the \$66.6 million mortgage loan secured by the hotel property. The net carrying value of the building and furniture, fixtures and equipment was approximately \$65.2 million as of June 30, 2024.

**Limited Waiver Under Advisory Agreement**

The Company, Braemar OP, Braemar TRS, Ashford Inc. and Ashford Hospitality Advisors LLC (together with Ashford Inc., the "Advisor"), are parties to that certain Fifth Amended and Restated Advisory Agreement, dated as of April 23, 2018 (as amended, the "Advisory Agreement").

The Company has a mortgage loan maturing in June 2025 with an outstanding principal balance of approximately \$ 293 million (the "Loan") secured by four hotel properties: The Notary Hotel; The Clancy; Sofitel Chicago Magnificent Mile; and Marriott Seattle Waterfront (the "Hotel Properties"). On August 8, 2024, the parties to the Advisory Agreement entered into a Limited Waiver Under Advisory Agreement (the "Waiver Agreement") that provides, among other things, as follows:

(i) From August 8, 2024 until the earlier of (i) November 15, 2025 and (ii) the refinancing of the Loan (the "Loan Outside Date"), the Advisor waives the operation of Section 12.4(a) of the Advisory Agreement that would permit the Advisor to terminate the Advisory Agreement occurring solely as a result from the sale or disposition of one or more of the Hotel Properties as a result of a mortgage foreclosure, deed-in-lieu of mortgage foreclosure, mezzanine loan foreclosure or an assignment in-lieu of a mezzanine loan foreclosure following the failure of the Company to pay, upon the maturity of the Loan, all amounts due and payable thereunder (the "Limited Waiver");

(ii) Upon the satisfaction of certain conditions, the Company may request the Advisor agree to amend the Waiver Agreement to extend the Loan Outside Date for a period not to exceed ninety (90) days from November 15, 2025 and if the Advisor agrees to such amendment, the Advisor shall not be entitled to any further consideration in respect thereof;

(iii) If the members of the Board of Directors of the Company (the "Board") change such that members who constitute the Board as of August 8, 2024 (the "Incumbent Board") no longer constitute at least a majority of the Board (other than those whose election to the Board is approved or recommended to stockholders of the Company by a vote of at least a majority of the Incumbent Board), the Limited Waiver shall be null and void ab initio (but the consideration provided by the Company to the Advisor as described in item (iv) below shall remain in force); and

(iv) In exchange for the Limited Waiver and the other agreements provided by the Advisor in the Waiver Agreement, the Company agrees to pay the Advisor an amount equal to the Advisor's obligation under the Advisor's current employment agreement with Richard J. Stockton, the Company's President and Chief Executive Officer (the "Stockton Employment Agreement"), to pay Mr. Stockton a multiple of his Base Salary (as defined in the Stockton Employment Agreement) that becomes payable by the Advisor to Mr. Stockton as the result of the occurrence of certain events as more fully described in the Waiver Agreement.

**Mortgage Loan Refinance**

On August 7, 2024, the Company closed on a refinancing involving five hotels. The new loan totals \$407 million and has a two-year initial term with three one-year extension options, subject to the satisfaction of certain conditions, taking the final maturity to 2029. The loan is interest only and provides for a floating interest rate of SOFR + 3.24%. As part of this financing, the Company acquired \$ 42.2 million of the most junior tranche of the loan, which lowered its net spread on the \$364.8 million remaining loan amount to SOFR + 3.01%. The loan is secured by five hotels: Pier House Resort & Spa, Bardessono Hotel & Spa, Hotel Yountville, The Ritz-Carlton Sarasota, and The Ritz-Carlton St. Thomas. The new loan refinanced the \$80.0 million loan secured by the Pier House Resort & Spa which had an interest rate of SOFR + 3.60% and had a final maturity date in September 2025, the \$ 42.5 million loan secured by The Ritz-Carlton St. Thomas which had an interest rate of SOFR + 4.35% and had a final maturity date in August 2026, and the \$200.0 million secured credit facility secured by The Ritz-Carlton Sarasota, Hotel Yountville, and Bardessono Hotel & Spa which had an interest rate of SOFR + 3.10% and had a final maturity date in July 2027.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

As used in this Quarterly Report on Form 10-Q, unless the context otherwise indicates, the references to "we," "us," "our," the "Company" or "Braemar" refer to Braemar Hotels & Resorts Inc., a Maryland corporation, and, as the context may require, its consolidated subsidiaries, including Braemar Hospitality Limited Partnership, a Delaware limited partnership, which we refer to as "our operating partnership" or "Braemar OP." "Our TRSs" refers to our taxable REIT subsidiaries, including Braemar TRS Corporation, a Delaware corporation, which we refer to as "Braemar TRS," and its subsidiaries, together with the two taxable REIT subsidiaries that lease our two hotels held in a consolidated joint venture and are wholly owned by the joint venture and the U.S. Virgin Islands' ("USVI") taxable REIT subsidiary that owns The Ritz-Carlton St. Thomas hotel. "Ashford Trust" refers to Ashford Hospitality Trust, Inc., a Maryland corporation, and, as the context may require, its consolidated subsidiaries, including Ashford Hospitality Limited Partnership, a Delaware limited partnership and Ashford Trust's operating partnership, which we refer to as "Ashford Trust OP." "Ashford Inc." refers to Ashford Inc., a Nevada corporation and, as the context may require, its consolidated subsidiaries. "Ashford LLC" or our "Advisor" refers to Ashford Hospitality Advisors LLC, a Delaware limited liability company and a subsidiary of Ashford Inc. "Premier" refers to Premier Project Management LLC, a Maryland limited liability company and a subsidiary of Ashford LLC. "Remington Hospitality" refers to the same entity after the acquisition was completed resulting in Remington Lodging & Hospitality, LLC becoming a subsidiary of Ashford Inc.

This Quarterly Report on Form 10-Q (this "Form 10-Q") contains registered trademarks that are the exclusive property of their respective owners, which are companies other than us, including Marriott International®, Hilton Worldwide®, Sofitel®, Hyatt® and Accor®.

### FORWARD-LOOKING STATEMENTS

Throughout this Form 10-Q, we make forward-looking statements that are subject to risks and uncertainties. Forward-looking statements are generally identifiable by use of forward-looking terminology such as "may," "will," "should," "potential," "intend," "expect," "anticipate," "estimate," "approximately," "believe," "could," "project," "predict," or other similar words or expressions. Additionally, statements regarding the following subjects are forward-looking by their nature:

- our business and investment strategy;
- anticipated or expected purchases or sales of assets;
- our projected operating results;
- completion of any pending transactions;
- our understanding of our competition;
- projected capital expenditures; and
- the impact of technology on our operations and business.

Such forward-looking statements are based on our beliefs, assumptions and expectations of our future performance taking into account all information currently known to us. These beliefs, assumptions, and expectations can change as a result of many potential events or factors, not all of which are known to us. If a change occurs, our business, financial condition, liquidity, results of operations, plans, and other objectives may vary materially from those expressed in our forward-looking statements. You should carefully consider this risk when you make an investment decision concerning our securities. Additionally, the following factors could cause actual results to vary from our forward-looking statements:

- the factors discussed in our Form 10-K for the year ended December 31, 2023, as filed with the Securities and Exchange Commission (the "SEC") on March 14, 2024 (the "2023 10-K"), including those set forth under the sections entitled "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Business," "Properties" and other filings under the Exchange Act;
- changes in interest rates and inflation;
- macroeconomic conditions, such as a prolonged period of weak economic growth, and volatility in capital markets;
- uncertainty in the business sector and market volatility due to the 2023 failures of Silicon Valley Bank, New York Signature Bank and First Republic Bank;
- catastrophic events or geopolitical conditions, such as the conflict between Russia and Ukraine and the more recent Israel-Hamas war;
- extreme weather conditions, which may cause property damage or interrupt business;
- our ability to raise sufficient capital and/or take other actions to improve our liquidity position or otherwise meet our liquidity requirements;

- general volatility of the capital markets and the market price of our common and preferred stock;
- general business and economic conditions affecting the lodging and travel industry;
- changes in our business or investment strategy;
- availability, terms and deployment of capital;
- risks associated with our ability to effectuate our dividend policy, including factors such as operating results and the economic outlook influencing our board's decision whether to pay further dividends at levels previously disclosed or to use available cash to pay dividends;
- unanticipated increases in financing and other costs, including changes in interest rates;
- changes in our industry and the markets in which we operate, interest rates, or local economic conditions;
- the degree and nature of our competition;
- actual and potential conflicts of interest with Ashford Trust, Ashford Inc. and its subsidiaries (including Ashford LLC, Remington Hospitality and Premier), Stirling Hotels & Resorts, Inc. ("Stirling Inc."), and our executive officers and our non-independent directors;
- changes in personnel of Ashford LLC or the lack of availability of qualified personnel;
- changes in governmental regulations, accounting rules, tax rates and similar matters;
- legislative and regulatory changes, including changes to the Internal Revenue Code of 1986, as amended (the "Code") and related rules, regulations and interpretations governing the taxation of REITs;
- limitations imposed on our business and our ability to satisfy complex rules in order for us to qualify as a REIT for U.S. federal income tax purposes; and
- future sales and issuances of our common stock or other securities, which might result in dilution and could cause the price of our common stock to decline.

When considering forward-looking statements, you should keep in mind the matters summarized under "Item 1A. Risk Factors" in Part I of our 2023 10-K and this Form 10-Q, and the discussion in this Management's Discussion and Analysis of Financial Condition and Results of Operations, could cause our actual results and performance to differ significantly from those contained in our forward-looking statements. Accordingly, we cannot guarantee future results or performance. Readers are cautioned not to place undue reliance on any of these forward-looking statements, which reflect our views as of the date of this Form 10-Q. Furthermore, we do not intend to update any of our forward-looking statements after the date of this Form 10-Q to conform these statements to actual results and performance, except as may be required by applicable law.

## Overview

We are a Maryland corporation formed in April 2013 that invests primarily in high revenue per available room ("RevPAR"), luxury hotels and resorts. High RevPAR, for purposes of our investment strategy, means RevPAR of at least twice the then-current U.S. national average RevPAR for all hotels as determined by STR, LLC. Two times the U.S. national average was \$196 for the year ended December 31, 2023. We have elected to be taxed as a REIT under the Code. We conduct our business and own substantially all of our assets through our operating partnership, Braemar OP.

We operate in the direct hotel investment segment of the hotel lodging industry. As of June 30, 2024, we owned interests in 16 hotel properties in seven states, the District of Columbia, Puerto Rico and St. Thomas, U.S. Virgin Islands with 4,201 total rooms, or 3,963 net rooms, excluding those attributable to our joint venture partner. The hotel properties in our current portfolio are predominantly located in U.S. urban markets and resort locations with favorable growth characteristics resulting from multiple demand generators. We own 14 of our hotel properties directly, and the remaining two hotel properties, through an investment in a majority-owned consolidated entity.

We are advised by Ashford LLC through an advisory agreement. All of the hotel properties in our portfolio are currently asset-managed by Ashford LLC. We do not have any employees. All of the services that might be provided by employees are provided to us by Ashford LLC.

We do not operate any of our hotel properties directly; instead, we contractually engage hotel management companies to operate them for us under management contracts. As of June 30, 2024, Remington Hospitality, a subsidiary of Ashford Inc., managed four of our 16 hotel properties. Third-party management companies managed the remaining hotel properties.

Ashford Inc. also provides other products and services to us or our hotel properties through certain entities in which Ashford Inc. has an ownership interest. These products and services include, but are not limited to, design and construction services, debt placement and related services, broker-dealer and distribution services, audio visual services, real estate advisory

and brokerage services, insurance policies covering general liability, workers compensation and claims services, hypoallergenic premium rooms, watersport activities, travel/transportation services, mobile key technology and cash management services.

Mr. Monty J. Bennett, chairman and chief executive officer of Ashford Inc. and, together with Mr. Archie Bennett, Jr. (the "Bennetts"), as of June 30, 2024, hold a controlling interest in Ashford Inc. The Bennetts owned approximately 810,261 shares of Ashford Inc. common stock, which represented an approximate 23.6% ownership interest in Ashford Inc., and owned 18,758,600 shares of Ashford Inc. Series D Convertible Preferred Stock, which, along with all unpaid accrued and accumulated dividends thereon, was convertible (at a conversion price of \$117.50 per share) into an additional approximate 4,310,933 shares of Ashford Inc. common stock, which if converted as of June 30, 2024 would have increased the Bennetts' ownership interest in Ashford Inc. to 66.1%. The 18,758,600 shares of Series D Convertible Preferred Stock owned by Mr. Monty J. Bennett and Mr. Archie Bennett, Jr. include 360,000 shares owned by trusts.

As of June 30, 2024, Mr. Monty J. Bennett, chairman of our board of directors, and his father, Mr. Archie Bennett, Jr., together owned approximately 3,116,271 shares of our common stock (including common units, long-term incentive plan ("LTIP") units and performance LTIP units), which represented an approximate 4.2% ownership in the Company.

## **Recent Developments**

In February 2024, the Company and Ashford Inc. approved funding up to an additional \$1.0 million, in the aggregate, for OpenKey, allocated pro rata among them. On July 1, 2024, the Company funded \$79,000.

In April 2024, the Company repaid the \$30.0 million mortgage loan secured by the Cameo Beverly Hills hotel.

On May 3, 2024, the board of directors reflecting its commitment to creating long-term value to shareholders, approved notable capital market activities and strategic updates, including:

- the sale of Hilton Torrey Pines for \$165 million, and evaluating the sale of two other hotels;
- the repayment of all of its 2024 debt maturities;
- a \$50 million preferred share redemption program; and
- a \$50 million common share repurchase authorization.

On May 3, 2024, our board of directors approved a new share repurchase program, pursuant to which the board of directors granted a repurchase authorization to acquire shares of the Company's common stock, par value \$0.01 per share, having an aggregate value of up to \$50 million. The Company intends to begin share repurchases as soon as practicable and may repurchase shares through open market transactions, privately negotiated transactions or other means. The timing and amount of any transactions will be subject to the discretion of the Company based upon market conditions, and the program may be suspended or terminated at any time by the Company at its discretion without prior notice. The board of directors' authorization replaced any previous repurchase authorizations. As of June 30, 2024, no common stock has been repurchased.

On July 2, 2024, Braemar, Ashford Trust and Ashford Inc. (collectively with the Company, Ashford Trust and each of Ashford Inc.'s, the Company's and Ashford Trust's respective affiliates (including Stirling Hotels & Resorts, Inc.) and any entity advised by Ashford Inc., the "Company Group") entered into a Cooperation Agreement (the "Agreement") with Blackwells Capital LLC, Blackwells Onshore I LLC, Blackwells Holding Co. LLC, Vandewater Capital Holdings, LLC, Blackwells Asset Management LLC, BW Coinvest Management I LLC and Jason Aintabi (collectively, the "Blackwells Parties") regarding the withdrawal of the Blackwells Parties' proxy campaign, dismissal of pending litigation involving the parties and certain other matters.

Pursuant to the Agreement, the Blackwells Parties have agreed to withdraw (i) the notice delivered to the Company on March 10, 2024 purporting to nominate four director candidates to the Company's board of directors (the "Board") and make certain other proposals and (ii) the definitive proxy statement filed with the U.S. Securities and Exchange Commission (the "SEC") on April 3, 2024 to solicit proxies from stockholders of the Company to vote in favor of the Blackwells Parties' director nominees and proposals. In connection therewith, the Blackwells Parties will cease to take any further action with respect to the Company's 2024 Annual Meeting of Stockholders, except as otherwise provided for in the Agreement.

The Blackwells Parties have also agreed to specified standstill restrictions with respect to the Company Group, which will expire on July 2, 2034. During the standstill period, the Blackwells Parties are required to (i) appear in person or by proxy at each meeting of stockholders of the members of the Company Group in which they beneficially own shares of stock and vote any Blackwells Parties' shares then beneficially owned by them in accordance with the recommendation of the board of directors of such member of the Company Group on any proposals considered at such meeting and (ii) deliver consents or consent revocations in any action by written consent by stockholders of any member of the Company Group in which they

beneficially own shares in accordance with the recommendation of the board of directors of such member of the Company Group.

The Agreement also provides for the voluntary dismissal, with prejudice, of the consolidated action pending in the U.S. District Court for the Northern District of Texas to which the Company, Blackwells Capital LLC and certain of their respective related parties are parties (the "Consolidated Litigation"). The Company has agreed to reimburse Blackwells Capital LLC, in an amount agreed upon by the parties, for the Blackwells Parties' reasonable attorneys' fees and expenses incurred in connection with the Consolidated Litigation and related matters.

Additionally, pursuant to the Agreement, the Board will take steps to identify and select one additional individual to be appointed to the Board as an independent director (the "Additional Board Member"). The Board is required to promptly notify Blackwells Capital LLC of its selection of the Additional Board Member and to consider any input Blackwells Capital LLC may have with respect to the Additional Board Member.

The Agreement contains various other obligations and provisions applicable to the Company Group and the Blackwells Parties, including a mutual release of claims and mutual non-disparagement.

Concurrently and in connection with the Agreement, certain of the parties thereto have also entered into a Share Ownership Agreement (the "Share Ownership Agreement") and a Loan Agreement (the "Loan Agreement"), pursuant to which agreements the Company will provide to BW Coinvest I, LLC ("Borrower") an unsecured loan (the "Loan"). The proceeds from the Loan will be used to reimburse Borrower for 70% of the amount expended by Borrower to purchase on the open market a total of 3,500,000 shares of the Company's common stock (the "Purchased Shares") within six months of the date of Loan Agreement, at a price per Purchased Share not to exceed \$10 and subject to the other limitations set forth therein. The Loan has a term of five years (the "Term"), is guaranteed by Jason Aintabi, Vandewater Capital Holdings, LLC, Blackwells Holding Co. LLC, and Blackwells Asset Management LLC and shall bear payment-in-kind interest during the Term at a rate equal to the sum of (a) Term SOFR (as defined in the Loan Agreement) and (b) 3.00% (three hundred basis points) per annum. The Company has agreed to reimburse Blackwells Capital LLC, in an amount agreed upon by the parties, for the Blackwells Parties' reasonable due diligence expenses incurred on or prior to the date of the Share Ownership Agreement. As of August 7, 2024, the Company has loaned approximately \$4.1 million that has been used to purchase approximately 1.7 million shares of Braemar common stock.

On July 17, 2024, we sold the Hilton La Jolla Torrey Pines hotel pursuant to an Agreement of Purchase and Sale, entered into effective May 6, 2024, for \$165 million in cash, subject to customary pro-rations and adjustments. The Company owned an indirect 75% equity interest in the hotel property. Additionally, the Company repaid the \$66.6 million mortgage loan secured by the hotel property.

On August 7, 2024, the Company closed on a refinancing involving five hotels. The new loan totals \$407 million and has a two-year initial term with three one-year extension options, subject to the satisfaction of certain conditions, taking the final maturity to 2029. The loan is interest only and provides for a floating interest rate of SOFR + 3.24%. As part of this financing, the Company acquired \$42.2 million of the most junior tranche of the loan, which lowered its net spread on the \$364.8 million remaining loan amount to SOFR + 3.01%. The loan is secured by five hotels: Pier House Resort & Spa, Bardessono Hotel & Spa, Hotel Yountville, The Ritz-Carlton Sarasota, and The Ritz-Carlton St. Thomas. The new loan refinanced the \$80.0 million loan secured by the Pier House Resort & Spa which had an interest rate of SOFR + 3.60% and had a final maturity date in September 2025, the \$42.5 million loan secured by The Ritz-Carlton St. Thomas which had an interest rate of SOFR + 4.35% and had a final maturity date in August 2026, and the \$200.0 million secured credit facility secured by The Ritz-Carlton Sarasota, Hotel Yountville, and Bardessono Hotel & Spa which had an interest rate of SOFR + 3.10% and had a final maturity date in July 2027.

The Company, Braemar OP, Braemar TRS, Ashford Inc. and Ashford Hospitality Advisors LLC (together with Ashford Inc., the "Advisor"), are parties to that certain Fifth Amended and Restated Advisory Agreement, dated as of April 23, 2018 (as amended, the "Advisory Agreement").

The Company has a mortgage loan maturing in June 2025 with an outstanding principal balance of approximately \$293 million (the "Loan") secured by four hotel properties: The Notary Hotel; The Clancy; Sofitel Chicago Magnificent Mile; and Marriott Seattle Waterfront (the "Hotel Properties"). On August 8, 2024, the parties to the Advisory Agreement entered into a Limited Waiver Under Advisory Agreement (the "Waiver Agreement") that provides, among other things, as follows:

(i) From August 8, 2024 until the earlier of (i) November 15, 2025 and (ii) the refinancing of the Loan (the "Loan Outside Date"), the Advisor waives the operation of Section 12.4(a) of the Advisory Agreement that would permit the Advisor to terminate the Advisory Agreement occurring solely as a result from the sale or disposition of one or more of the Hotel

Properties as a result of a mortgage foreclosure, deed-in-lieu of mortgage foreclosure, mezzanine loan foreclosure or an assignment in-lieu of a mezzanine loan foreclosure following the failure of the Company to pay, upon the maturity of the Loan, all amounts due and payable thereunder (the "Limited Waiver");

(ii) Upon the satisfaction of certain conditions, the Company may request the Advisor agree to amend the Waiver Agreement to extend the Loan Outside Date for a period not to exceed ninety (90) days from November 15, 2025 and if the Advisor agrees to such amendment, the Advisor shall not be entitled to any further consideration in respect thereof;

(iii) If the members of the Board of Directors of the Company (the "Board") change such that members who constitute the Board as of August 8, 2024 (the "Incumbent Board") no longer constitute at least a majority of the Board (other than those whose election to the Board is approved or recommended to stockholders of the Company by a vote of at least a majority of the Incumbent Board), the Limited Waiver shall be null and void ab initio (but the consideration provided by the Company to the Advisor as described in item (iv) below shall remain in force); and

(iv) In exchange for the Limited Waiver and the other agreements provided by the Advisor in the Waiver Agreement, the Company agrees to pay the Advisor an amount equal to the Advisor's obligation under the Advisor's current employment agreement with Richard J. Stockton, the Company's President and Chief Executive Officer (the "Stockton Employment Agreement"), to pay Mr. Stockton a multiple of his Base Salary (as defined in the Stockton Employment Agreement) that becomes payable by the Advisor to Mr. Stockton as the result of the occurrence of certain events as more fully described in the Waiver Agreement.

#### **Key Indicators of Operating Performance**

We use a variety of operating and other information to evaluate the operating performance of our business. These key indicators include financial information that is prepared in accordance with GAAP, as well as other financial measures that are non-GAAP measures. In addition, we use other information that may not be financial in nature, including statistical information and comparative data. We use this information to measure the operating performance of our individual hotels, groups of hotels and/or business as a whole. We also use these metrics to evaluate the hotels in our portfolio and potential acquisitions to determine each hotel's contribution to cash flow and its potential to provide attractive long-term total returns. These key indicators include:

- **Occupancy.** Occupancy means the total number of hotel rooms sold in a given period divided by the total number of rooms available. Occupancy measures the utilization of our hotels' available capacity. We use occupancy to measure demand at a specific hotel or group of hotels in a given period.
- **ADR.** ADR means average daily rate and is calculated by dividing total hotel rooms revenues by total number of rooms sold in a given period. ADR measures average room price attained by a hotel and ADR trends provide useful information concerning the pricing environment and the nature of the customer base of a hotel or group of hotels. We use ADR to assess the pricing levels that we are able to generate.
- **RevPAR.** RevPAR means revenue per available room and is calculated by multiplying ADR by the average daily occupancy. RevPAR is one of the commonly used measures within the hotel industry to evaluate hotel operations. RevPAR does not include revenues from food and beverage sales or parking, telephone or other non-rooms revenues generated by the property. Although RevPAR does not include these ancillary revenues, it is generally considered the leading indicator of core revenues for many hotels. We also use RevPAR to compare the results of our hotels between periods and to analyze results of our comparable hotels (comparable hotels represent hotels we have owned for the entire period). RevPAR improvements attributable to increases in occupancy are generally accompanied by increases in most categories of variable operating costs. RevPAR improvements attributable to increases in ADR are generally accompanied by increases in limited categories of operating costs, such as management fees and franchise fees.

RevPAR changes that are primarily driven by changes in occupancy have different implications for overall revenues and profitability than changes that are driven primarily by changes in ADR. For example, an increase in occupancy at a hotel would lead to additional variable operating costs (including housekeeping services, utilities and room supplies) and could also result in increased other operating department revenue and expense. Changes in ADR typically have a greater impact on operating margins and profitability as they do not have a substantial effect on variable operating costs.

Occupancy, ADR and RevPAR are commonly used measures within the lodging industry to evaluate operating performance. RevPAR is an important statistic for monitoring operating performance at the individual hotel level and across our entire business. We evaluate individual hotel RevPAR performance on an absolute basis with comparisons to budget and prior periods, as well as on a regional and company-wide basis. ADR and RevPAR include only rooms revenue. Rooms revenue is dictated by demand (as measured by occupancy), pricing (as measured by ADR) and our available supply of hotel rooms.

We also use funds from operations ("FFO"), Adjusted FFO, earnings before interest, taxes, depreciation and amortization for real estate ("EBITDAre") and Adjusted EBITDAre as measures of the operating performance of our business. See "Non-GAAP Financial Measures."

## RESULTS OF OPERATIONS

### Three Months Ended June 30, 2024 Compared to Three Months Ended June 30, 2023

The following table summarizes changes in key line items from our condensed consolidated statements of operations for three months ended June 30, 2024 and 2023 (in thousands except percentages):

	Three Months Ended June 30,		Favorable (Unfavorable)	
	2024	2023	\$ Change	% Change
<b>Revenue</b>				
Rooms	\$ 116,227	\$ 117,137	\$ (910)	(0.8)%
Food and beverage	47,563	47,776	(213)	(0.4)
Other	23,797	21,794	2,003	9.2
<b>Total revenue</b>	<b>187,587</b>	<b>186,707</b>	<b>880</b>	<b>0.5</b>
<b>Expenses</b>				
Hotel operating expenses:				
Rooms	27,476	26,705	(771)	(2.9)
Food and beverage	36,664	36,365	(299)	(0.8)
Other expenses	58,155	56,297	(1,858)	(3.3)
Management fees	6,068	5,880	(188)	(3.2)
Total hotel operating expenses	128,363	125,247	(3,116)	(2.5)
Property taxes, insurance and other	10,058	9,396	(662)	(7.0)
Depreciation and amortization	24,694	22,567	(2,127)	(9.4)
Advisory services fee	7,828	8,215	387	4.7
Corporate general and administrative	4,469	3,896	(573)	(14.7)
<b>Total expenses</b>	<b>175,412</b>	<b>169,321</b>	<b>(6,091)</b>	<b>(3.6)</b>
<b>Operating income (loss)</b>	<b>12,175</b>	<b>17,386</b>	<b>(5,211)</b>	<b>(30.0)</b>
Equity in earnings (loss) of unconsolidated entity	(85)	(75)	(10)	(13.3)
Interest income	1,072	2,295	(1,223)	(53.3)
Interest expense and amortization of loan costs	(27,285)	(23,600)	(3,685)	(15.6)
Write-off of loan costs and exit fees	(82)	(248)	166	66.9
Gain (loss) on extinguishment of debt	(22)	—	(22)	
Realized and unrealized gain (loss) on derivatives	326	1,029	(703)	(68.3)
<b>Income (loss) before income taxes</b>	<b>(13,901)</b>	<b>(3,213)</b>	<b>(10,688)</b>	<b>(332.6)</b>
Income tax (expense) benefit	114	75	39	(52.0)
<b>Net income (loss)</b>	<b>(13,787)</b>	<b>(3,138)</b>	<b>(10,649)</b>	<b>339.4</b>
(Income) loss attributable to noncontrolling interest in consolidated entities	303	367	(64)	17.4
Net (income) loss attributable to redeemable noncontrolling interests in operating partnership	1,919	925	994	107.5
<b>Net income (loss) attributable to the Company</b>	<b>\$ (11,565)</b>	<b>\$ (1,846)</b>	<b>\$ (9,719)</b>	<b>(526.5)%</b>

The following table illustrates the key performance indicators of all hotel properties owned for the periods indicated:

	Three Months Ended June 30,	
	2024	2023
Occupancy	72.82 %	70.91 %
ADR (average daily rate)	\$ 415.24	\$ 430.68
RevPAR (revenue per available room)	\$ 302.37	\$ 305.39
Rooms revenue (in thousands)	\$ 116,227	\$ 117,137
Total hotel revenue (in thousands)	\$ 187,587	\$ 186,707

**Net Income (Loss) Attributable to the Company.** Net loss attributable to the Company increased \$9.7 million, from \$1.8 million for the three months ended June 30, 2023 (the “2023 quarter”) to \$11.6 million for the three months ended June 30, 2024 (the “2024 quarter”), as a result of the factors discussed below.

**Rooms Revenue.** Rooms revenue decreased \$910,000, or 0.8%, to \$116.2 million during the 2024 quarter compared to the 2023 quarter. During the 2024 quarter, we experienced a 191 basis point increase in occupancy and a 3.6% decrease in room rates.

Fluctuations in rooms revenue between the 2024 quarter and the 2023 quarter are a result of the changes in occupancy and ADR between the 2024 quarter and the 2023 quarter as reflected in the table below (dollars in thousands):

Hotel Property	Favorable (Unfavorable)		
	Rooms Revenue	Occupancy (change in bps)	ADR (change in %)
<b>Comparable</b>			
Capital Hilton <sup>(2)</sup>	\$ 2,079	719	6.9 %
Marriott Seattle Waterfront	593	171	5.0 %
The Notary Hotel	998	544	5.0 %
The Clancy	(549)	(469)	(0.5) %
Sofitel Chicago Magnificent Mile	609	543	0.5 %
Pier House Resort & Spa	(337)	(258)	(2.2) %
The Ritz-Carlton St. Thomas	(1,313)	(447)	(4.3) %
Park Hyatt Beaver Creek Resort & Spa	46	413	(8.6) %
Hotel Yountville	28	673	(9.5) %
The Ritz-Carlton Sarasota <sup>(2)</sup>	(31)	434	(6.7) %
Hilton La Jolla Torrey Pines	590	385	3.3 %
Bardessono Hotel and Spa	(285)	(51)	(5.3) %
The Ritz-Carlton Lake Tahoe <sup>(1)</sup>	(616)	(1,032)	6.0 %
Cameo Beverly Hills	(593)	(914)	(7.3) %
The Ritz-Carlton Reserve Dorado Beach	(2,939)	(1,028)	(8.1) %
Four Seasons Resort Scottsdale	810	819	(5.7) %
<b>Total</b>	<b>\$ (910)</b>	<b>191</b>	<b>(3.6) %</b>

<sup>(1)</sup> This hotel was under renovation during the 2024 quarter.

<sup>(2)</sup> This hotel was under renovation during the 2023 quarter.

**Food and Beverage Revenue.** Food and beverage revenue decreased \$213,000, or 0.4%, to \$47.6 million during the 2024 quarter compared to the 2023 quarter. This decrease is attributable to a decrease of \$3.0 million at seven hotel properties. These decreases were partially offset by an aggregate increase of \$2.8 million at The Clancy, Four Seasons Resort Scottsdale, Hilton La Jolla Torrey Pines, Hotel Yountville, Marriott Seattle Waterfront, The Notary Hotel, Pier House Resort & Spa, The Ritz-Carlton St. Thomas, Sofitel Chicago Magnificent Mile.

**Other Hotel Revenue.** Other hotel revenue, which consists mainly of condo management fees, health center fees, resort fees, golf, telecommunications, parking and rentals, increased \$2.0 million, or 9.2%, to \$23.8 million during the 2024 quarter compared to the 2023 quarter. This increase is attributable to an aggregate increase in other hotel revenue of \$2.6 million at 12 hotel properties, partially offset by an aggregate decrease of \$575,000 at the Cameo Beverly Hills, The Notary Hotel, The Ritz-Carlton Lake Tahoe, and The Ritz-Carlton Reserve Dorado Beach.

**Rooms Expense.** Rooms expense increased \$771,000, or 2.9%, to \$27.5 million in the 2024 quarter compared to the 2023 quarter. This increase is primarily attributable to an aggregate increase of \$1.5 million at 11 hotel properties, partially offset by an aggregate decrease of \$714,000 at Cameo Beverly Hills, Park Hyatt Beaver Creek Resort & Spa, The Ritz-Carlton Lake Tahoe, The Ritz-Carlton Reserve Dorado Beach, and The Ritz-Carlton St. Thomas.

**Food and Beverage Expense.** Food and beverage expense increased \$299,000, or 0.8%, to \$36.7 million during the 2024 quarter compared to the 2023 quarter. This increase is attributable to an aggregate increase of \$1.9 million at 12 hotel properties, partially offset by an aggregate decrease of \$1.6 million at the Bardessono Hotel and Spa, Cameo Beverly Hills, The Ritz-Carlton Lake Tahoe, and The Ritz-Carlton Reserve Dorado Beach.

**Other Operating Expenses.** Other operating expenses increased \$1.9 million, or 3.3%, to \$58.2 million in the 2024 quarter compared to the 2023 quarter. Hotel operating expenses consist of direct expenses from departments associated with revenue streams and indirect expenses associated with support departments and incentive management fees.

We experienced a decrease of \$150,000 in direct expenses and an increase of \$2.0 million in indirect expenses and incentive management fees in the 2024 quarter as compared to the 2023 quarter. Direct expenses were 4.2% of total hotel revenue in the 2024 quarter and 4.3% in the 2023 quarter.

The increase in indirect expenses comprises increases in: (i) general and administrative costs of \$1.1 million; (ii) marketing costs of \$74,000; (iii) repairs and maintenance of \$508,000; and (iv) incentive management fees of \$776,000. The increases were partially offset by decreases in (i) energy costs of \$294,000 and (ii) lease expense of \$190,000.

**Management Fees.** Base management fees increased \$188,000, or 3.2%, to \$6.1 million in the 2024 quarter compared to the 2023 quarter. Base management fees increased by \$506,000 at nine hotel properties, partially offset by an aggregate decrease of \$318,000 at the Bardessono Hotel and Spa, Cameo Beverly Hills, The Clancy, Pier House Resort & Spa, The Ritz-Carlton Lake Tahoe, The Ritz-Carlton Reserve Dorado Beach, and The Ritz-Carlton St. Thomas.

**Property Taxes, Insurance and Other.** Property taxes, insurance and other increased \$662,000, or 7.0%, to \$10.1 million in the 2024 quarter compared to the 2023 quarter. The increase is primarily attributable to an aggregate increase of approximately \$1.1 million at 12 hotel properties. These increases were partially offset by an aggregate decrease of \$431,000 primarily at the Capital Hilton, Four Seasons Resort Scottsdale, Park Hyatt Beaver Creek Resort & Spa, and Sofitel Chicago Magnificent Mile.

**Depreciation and Amortization.** Depreciation and amortization increased \$2.1 million, or 9.4%, to \$24.7 million in the 2024 quarter compared to the 2023 quarter. There was an aggregate increase of \$3.0 million at 12 hotel properties, partially offset by an aggregate decrease of \$892,000 at The Clancy, The Notary Hotel, Pier House Resort & Spa, and Sofitel Chicago Magnificent Mile due to fully depreciated assets.

**Advisory Services Fee.** Advisory services fee decreased \$387,000, or 4.7%, to \$7.8 million in the 2024 quarter compared to the 2023 quarter due to decreases of \$1.6 million in equity-based compensation and \$331,000 in the base advisory fee, partially offset by increases of \$919,000 in reimbursable expenses and \$648,000 in the incentive fee.

In the 2024 quarter, we recorded an advisory services fee of \$7.8 million, which included a base advisory fee of \$3.3 million, reimbursable expenses of \$3.0 million, equity-based compensation of \$883,000, and an incentive fee of \$648,000.

In the 2023 quarter, we recorded an advisory services fee of \$8.2 million, which included a base advisory fee of \$3.7 million, reimbursable expenses of \$2.0 million, and \$2.5 million associated with equity grants of our common stock and LTIP units awarded to the officers and employees of Ashford Inc.

**Corporate General and Administrative.** Corporate general and administrative expense was \$4.5 million in the 2024 quarter as compared to \$3.9 million in the 2023 quarter. The increase in corporate general and administrative expense is due to higher professional fees of \$2.6 million, partially offset by lower reimbursed operating expenses of Ashford Securities of \$1.0 million, lower miscellaneous expenses of \$696,000 and lower public company costs of \$316,000.

**Equity in Earnings (Loss) of Unconsolidated Entity.** In the 2024 quarter and 2023 quarter, we recorded equity in loss of unconsolidated entity of \$85,000 and \$75,000, respectively, related to our investment in OpenKey.

**Interest Income.** Interest income was \$1.1 million and \$2.3 million in the 2024 quarter and 2023 quarter, respectively. The decrease in interest income in the 2024 quarter was primarily attributable to lower excess cash balances in the 2024 quarter compared to the 2023 quarter.

**Interest Expense and Amortization of Loan Costs.** Interest expense and amortization of loan costs increased \$3.7 million, or 15.6%, to \$27.3 million in the 2024 quarter compared to the 2023 quarter. This increase is primarily due to higher interest expense from higher average interest rates. The average SOFR rates for the 2024 quarter and the 2023 quarter were 5.33% and 4.74%, respectively. The average LIBOR rate for the 2023 quarter was 5.10%.

**Write-off of Loan Costs and Exit Fees.** Write-off of loan costs and exit fees was \$82,000 in the 2024 quarter, primarily related to various loan modifications. Write-off of loan costs and exit fees was \$248,000 in the 2023 quarter, primarily related to various loan modifications.

***Gain (loss) on Extinguishment of Debt.*** In 2024 quarter, we recognized a loss of \$22,000 attributable to the discount associated with the Cameo Beverly Hills mortgage loan that was repaid on April 9, 2024. There was no such gain (loss) recognized in the 2023 quarter.

***Realized and Unrealized Gain (Loss) on Derivatives.*** Realized and unrealized gain on derivatives of \$326,000 for 2024 quarter consisted of a realized gain of \$1.5 million associated with payments received from counterparties on in-the-money interest rate caps, partially offset by an unrealized loss on interest rate caps of approximately \$1.2 million.

Realized and unrealized gain on derivatives of \$1.0 million for 2023 quarter consisted of an unrealized gain on warrants of approximately \$16,000 and a realized gain of \$2.3 million associated with payments received from counterparties on in-the-money interest rate caps. These gains were partially offset by an unrealized loss on interest rate caps of approximately \$1.3 million.

***Income Tax (Expense) Benefit.*** Income tax benefit increased \$39,000, from \$75,000 in the 2023 quarter to \$114,000 in the 2024 quarter. This increase was primarily due to a decrease in the taxable income of certain of our TRS entities in the 2024 quarter compared to the 2023 quarter.

***(Income) Loss Attributable to Noncontrolling Interest in Consolidated Entities.*** Our noncontrolling interest partner in consolidated entities was allocated loss of \$303,000 and \$367,000 in the 2024 quarter and the 2023 quarter, respectively. At both June 30, 2024 and 2023, noncontrolling interest in consolidated entities represented an ownership interest of 25% in two hotel properties held by one entity.

***Net (Income) Loss Attributable to Redeemable Noncontrolling Interests in Operating Partnership.*** Noncontrolling interests in operating partnership were allocated a net loss of \$1.9 million and \$925,000 in the 2024 quarter and the 2023 quarter, respectively. Redeemable noncontrolling interests in Braemar OP represented ownership interests of 8.02% and 6.63% as of June 30, 2024 and 2023, respectively.

**Six Months Ended June 30, 2024 Compared to Six Months Ended June 30, 2023**

The following table summarizes changes in key line items from our condensed consolidated statements of operations for the six months ended June 30, 2024 and 2023 (in thousands except percentages):

	Six Months Ended June 30,		Favorable (Unfavorable)	
	2024	2023	\$ Change	% Change
<b>Revenue</b>				
Rooms	\$ 254,779	\$ 254,664	\$ 115	—%
Food and beverage	101,110	100,004	1,106	1.1
Other	50,777	47,340	3,437	7.3
Total hotel revenue	406,666	402,008	4,658	1.2
<b>Expenses</b>				
Hotel operating expenses:				
Rooms	55,740	54,063	(1,677)	(3.1)
Food and beverage	77,381	76,104	(1,277)	(1.7)
Other expenses	118,231	118,592	361	0.3
Management fees	13,044	12,585	(459)	(3.6)
Total hotel operating expenses	264,396	261,344	(3,052)	(1.2)
Property taxes, insurance and other	20,755	17,512	(3,243)	(18.5)
Depreciation and amortization	50,114	45,088	(5,026)	(11.1)
Advisory services fee	14,528	16,163	1,635	10.1
Corporate general and administrative	2,231	6,716	4,485	66.8
Total expenses	352,024	346,823	(5,201)	(1.5)
<b>Operating income (loss)</b>	54,642	55,185	(543)	(1.0)
Equity in earnings (loss) of unconsolidated entity	(134)	(148)	14	9.5
Interest income	1,868	4,403	(2,535)	(57.6)
Interest expense and amortization of discounts and loan costs	(53,776)	(46,473)	(7,303)	(15.7)
Write-off of loan costs and exit fees	(803)	(260)	(543)	(208.8)
Gain (loss) on extinguishment of debt	(22)	2,318	(2,340)	(100.9)
Realized and unrealized gain (loss) on derivatives	1,258	695	563	(81.0)
<b>Income (loss) before income taxes</b>	3,033	15,720	(12,687)	(80.7)
Income tax (expense) benefit	(1,338)	(2,254)	916	40.6
<b>Net income (loss)</b>	1,695	13,466	(11,771)	(87.4)
(Income) loss attributable to noncontrolling interest in consolidated entities	1,046	58	988	(1,703.4)
Net (income) loss attributable to redeemable noncontrolling interests in operating partnership	1,623	664	959	(144.4)
<b>Net income (loss) attributable to the Company</b>	\$ 4,364	\$ 14,188	\$ (9,824)	(69.2)%

The following table illustrates the key performance indicators of our 16 hotel properties owned for the periods indicated:

	Six Months Ended June 30,	
	2024	2023
Occupancy		69.10 %
ADR (average daily rate)	\$ 479.67	\$ 491.69
RevPAR (revenue per available room)	\$ 331.47	\$ 333.84
Rooms revenue (in thousands)	\$ 254,779	\$ 254,664
Total hotel revenue (in thousands)	\$ 406,666	\$ 402,008

**Net Income Attributable to the Company.** Net income attributable to the Company decreased \$9.8 million from \$14.2 million for the six months ended June 30, 2023 (the "2023 period") to \$4.4 million for the six months ended June 30, 2024 (the "2024 period"), as a result of the factors discussed below.

**Rooms Revenue.** Rooms revenue increased \$115,000 to \$254.8 million during the 2024 period compared to the 2023 period. During the 2024 period, we experienced a 120 basis point increase in occupancy and a decrease of 2.4% in room rates compared to the 2023 period.



Fluctuations in rooms revenue between the 2024 period and the 2023 period are a result of the changes in occupancy and ADR between the 2024 period and the 2023 period as reflected in the table below (dollars in thousands):

Hotel Property	Favorable (Unfavorable)		
	Rooms Revenue	Occupancy (change in bps)	ADR (change in %)
<b>Comparable</b>			
Capital Hilton <sup>(1) (2)</sup>	\$ 2,434	391	4.5 %
Marriott Seattle Waterfront	831	103	4.5 %
The Notary Hotel	975	351	1.5 %
The Clancy	64	31	(0.6) %
Sofitel Chicago Magnificent Mile	417	161	0.6 %
Pier House Resort & Spa	(470)	(227)	(1.0) %
The Ritz-Carlton St. Thomas	(800)	(133)	(1.5) %
Park Hyatt Beaver Creek Resort & Spa	(1,114)	89	(9.0) %
Hotel Yountville	(162)	363	(9.7) %
The Ritz-Carlton Sarasota <sup>(1) (2)</sup>	503	415	(4.1) %
Hilton La Jolla Torrey Pines	223	—	1.1 %
Bardessono Hotel and Spa <sup>(1)</sup>	(907)	(394)	(6.7) %
The Ritz-Carlton Lake Tahoe	(1,772)	(877)	3.5 %
Cameo Beverly Hills	(1,500)	(872)	(13.8) %
The Ritz-Carlton Reserve Dorado Beach	626	(56)	2.6 %
Four Seasons Resort Scottsdale	767	972	(13.6) %
<b>Total</b>	<b>\$ 115</b>	<b>120</b>	<b>(2.4) %</b>

<sup>(1)</sup> This hotel was under renovation during the 2024 period.

<sup>(2)</sup> This hotel was under renovation during the 2023 period.

**Food and Beverage Revenue.** Food and beverage revenue increased \$1.1 million, or 1.1%, to \$101.1 million during the 2024 period compared to the 2023 period. We experienced an aggregate increase in food and beverage revenue of \$5.8 million at ten hotel properties. These increases were partially offset by an aggregate decrease of approximately \$4.7 million at Bardessono Hotel and Spa, Cameo Beverly Hills, Capital Hilton, Park Hyatt Beaver Creek Resort & Spa, The Ritz-Carlton Lake Tahoe, and The Ritz-Carlton Reserve Dorado Beach.

**Other Hotel Revenue.** Other hotel revenue, which consists mainly of condo management fees, health center fees, resort fees, golf, telecommunications, parking and rentals, increased \$3.4 million, or 7.3%, to \$50.8 million during the 2024 period compared to the 2023 period. This increase is attributable to higher other hotel revenue of \$4.5 million at 11 hotel properties. These increases were partially offset by an aggregate decrease of approximately \$1.0 million at Bardessono Hotel and Spa, Hilton La Jolla Torrey Pines, The Notary Hotel, The Ritz-Carlton Lake Tahoe, and The Ritz-Carlton Reserve Dorado Beach.

**Rooms Expense.** Rooms expense increased \$1.7 million, or 3.1%, to \$55.7 million in the 2024 period compared to the 2023 period. This increase is attributable to an aggregate increase in rooms expense of \$2.5 million at 11 hotel properties. These increases were partially offset by an aggregate decrease of approximately \$794,000 at the Cameo Beverly Hills, Hotel Yountville, Park Hyatt Beaver Creek Resort & Spa, The Ritz-Carlton Lake Tahoe, and The Ritz-Carlton St. Thomas.

**Food and Beverage Expense.** Food and beverage expense increased \$1.3 million, or 1.7%, to \$77.4 million during the 2024 period compared to the 2023 period. This increase is attributable to higher food and beverage expense of \$3.3 million at 11 hotel properties. These increases were partially offset by an aggregate decrease of approximately \$2.0 million at Bardessono Hotel and Spa, Cameo Beverly Hills, Park Hyatt Beaver Creek Resort & Spa, The Ritz-Carlton Lake Tahoe and The Ritz-Carlton Reserve Dorado Beach.

**Other Operating Expenses.** Other operating expenses decreased \$361,000, or 0.3%, to \$118.2 million in the 2024 period compared to the 2023 period. Other operating expenses consist of direct expenses from departments associated with revenue streams and indirect expenses associated with support departments and incentive management fees. We experienced an increase of \$589,000 in direct expenses and a decrease of \$950,000 in indirect expenses and incentive management fees in the 2024 period compared to the 2023 period. Direct expenses were 4.4% of total hotel revenue in the 2024 period and 4.3% in the 2023 period.

The increase in direct expenses is associated with higher direct expenses of approximately \$814,000 at 11 hotel properties. These increases were partially offset by lower direct expenses of \$225,000 at the Cameo Beverly Hills, Capital Hilton, The Notary Hotel, The Ritz-Carlton Lake Tahoe and The Ritz-Carlton Reserve Dorado Beach.

The decrease in indirect expenses was attributable to lower: (i) incentive management fees of \$1.1 million; (ii) general and administrative costs of \$525,000; (iii) lease expense of \$468,000; and (iv) energy costs of \$519,000, partially offset by higher: (i) repairs and maintenance of \$1.2 million; and (ii) \$541,000 in marketing costs.

**Management Fees.** Base management fees increased \$459,000, or 3.6%, to \$13.0 million in the 2024 period compared to the 2023 period. Management fees increased \$741,000 at nine hotel properties. These increases were partially offset by an aggregate decrease of \$282,000 at the Cameo Beverly Hills, Hotel Yountville, Park Hyatt Beaver Creek Resort & Spa, Pier House Resort & Spa, The Ritz-Carlton Lake Tahoe, The Ritz-Carlton Reserve Dorado Beach, and The Ritz-Carlton St. Thomas.

**Property Taxes, Insurance and Other.** Property taxes, insurance and other increased \$3.2 million, or 18.5%, to \$20.8 million in the 2024 period compared to the 2023 period. This increase is primarily attributable to an increase of \$1.5 million at the Sofitel Chicago Magnificent Mile related to a property tax refund received in the 2023 quarter and an aggregate increase of \$2.2 million at 13 hotel properties. These increases were partially offset by an aggregate decrease of approximately \$525,000 at two hotel properties.

**Depreciation and Amortization.** Depreciation and amortization increased \$5.0 million, or 11.1%, to \$50.1 million for the 2024 period compared to the 2023 period. This increase is comprised of an aggregate increase of \$6.8 million at 12 hotel properties. These increases were partially offset by an aggregate decrease of \$1.7 million at Sofitel Chicago Magnificent Mile, The Clancy, The Notary Hotel, and Pier House Resort & Spa, primarily due to fully depreciated assets.

**Advisory Services Fee.** Advisory services fee decreased \$1.6 million, or 10.1%, to \$14.5 million in the 2024 period compared to the 2023 period due to lower equity-based compensation of \$2.8 million and base advisory fee of \$644,000, partially offset by higher reimbursable expenses of \$1.2 million and higher incentive fees of \$648,000.

In the 2024 period, we recorded an advisory services fee of \$14.5 million, which included a base advisory fee of \$6.7 million, reimbursable expenses of \$5.2 million, \$2.0 million associated with equity grants of our common stock and LTIP units awarded to the officers and employees of Ashford Inc, and incentive fees of \$648,000.

In the 2023 period, we recorded an advisory services fee of \$16.2 million, which included a base advisory fee of \$7.3 million, reimbursable expenses of \$4.1 million, and \$4.8 million associated with equity grants of our common stock and LTIP units awarded to the officers and employees of Ashford Inc.

**Corporate General and Administrative.** Corporate general and administrative expense was \$2.2 million in the 2024 period compared to expense of \$6.7 million in the 2023 period. The decrease in corporate general and administrative expenses of \$4.5 million is primarily attributable to a revision to the estimated contribution amount associated with the Fourth Amended and Restated Contribution Agreement with Ashford Securities that resulted in a \$5.6 million expense reduction in 2024, lower miscellaneous expenses of \$682,000, and lower public company costs of \$312,000. This decrease was partially offset by higher professional fees of \$4.4 million.

**Equity in Earnings (Loss) of Unconsolidated Entity.** In the 2024 period and the 2023 period, we recorded equity in loss of unconsolidated entity of \$134,000 and \$148,000, respectively, related to our investment in OpenKey.

**Interest Income.** Interest income was \$1.9 million and \$4.4 million in the 2024 period and the 2023 period, respectively. The decrease in interest income in the 2024 period was primarily attributable to lower excess cash balances in the 2024 period compared to the 2023 period.

**Interest Expense and Amortization of Discounts and Loan Costs.** Interest expense and amortization of discounts and loan costs increased \$7.3 million, or 15.7%, to \$53.8 million for the 2024 period compared to the 2023 period. The increase is primarily due to higher interest expense from higher average interest rates in the 2024 period. The average SOFR rates for the 2024 period and the 2023 period were 5.33% and 4.62%, respectively. LIBOR ceased to be published after June 30, 2023. The average LIBOR rate for the 2023 period was 4.85%.

**Write-off of Loan Costs and Exit Fees.** Write-off of loan costs and exit fees was \$803,000 in the 2024 period related to various loan refinances and modifications. Write-off of loan costs and exit fees was \$260,000 in the 2023 period related to various loan modifications.

***Gain (loss) on Extinguishment of Debt.*** Gain on extinguishment of debt was \$2.3 million in the 2023 period due to the payoff of The Ritz-Carlton Reserve Dorado Beach mortgage loan. The gain was primarily attributable to the premium that was recorded upon the assumption of the mortgage loan when the hotel was acquired. In the 2024 period, we recognized a loss of \$22,000 attributable to the discount associated with the Cameo Beverly Hills mortgage loan that was repaid on April 9, 2024.

***Realized and Unrealized Gain (Loss) on Derivatives.*** Realized and unrealized gain on derivatives of \$1.3 million for the 2024 period consisted of an unrealized gain on warrants of \$12,000 and a realized gain of \$3.2 million associated with payments received from counterparties on in-the-money interest rate caps, partially offset by an unrealized loss on interest rate caps of approximately \$2.0 million.

Realized and unrealized gain on derivatives of \$695,000 for the 2023 period consisted of unrealized gain on warrants of \$119,000 and a realized gain of \$4.1 million associated with payments received from counterparties on in-the-money interest rate caps. These gains were partially offset by an unrealized loss on interest rate caps of approximately \$3.6 million.

***Income Tax (Expense) Benefit.*** Income tax expense decreased \$916,000, from \$2.3 million in the 2023 period to \$1.3 million in the 2024 period. This decrease was primarily due to a decrease in the taxable income of certain of our TRS entities in the 2024 period compared to the 2023 period.

***(Income) Loss Attributable to Noncontrolling Interest in Consolidated Entities.*** Our noncontrolling interest partner in consolidated entities was allocated loss of \$1.0 million and a loss of \$58,000 in the 2024 period and the 2023 period, respectively. At both June 30, 2024 and 2023, noncontrolling interest in consolidated entities represented an ownership interest of 25% in two hotel properties held by one entity.

***Net (Income) Loss Attributable to Redeemable Noncontrolling Interests in Operating Partnership.*** Noncontrolling interests in operating partnership were allocated net income of \$1.6 million in the 2024 period and a net loss of \$664,000 in the 2023 period. Redeemable noncontrolling interests represented ownership interests in Braemar OP of approximately 8.02% and 6.63% as of June 30, 2024 and 2023, respectively.

## LIQUIDITY AND CAPITAL RESOURCES

Our short-term liquidity requirements consist primarily of funds necessary to pay for operating expenses and other expenditures directly associated with our hotel properties, including:

- advisory fees payable to Ashford LLC;
- recurring maintenance necessary to maintain our hotel properties in accordance with brand standards;
- interest expense and scheduled principal payments on outstanding indebtedness;
- dividends on our common stock;
- dividends on our preferred stock; and
- capital expenditures to improve our hotel properties.

We expect to meet our short-term liquidity requirements generally through net cash provided by operations, capital market activities, asset sales and existing cash balances.

Pursuant to the advisory agreement between us and our Advisor, we must pay our Advisor on a monthly basis a base advisory fee, subject to a minimum base advisory fee. The minimum base advisory fee is equal to the greater of: (i) 90% of the base fee paid for the same month in the prior fiscal year; and (ii) 1/12 of the "G&A Ratio" for the most recently completed fiscal quarter multiplied by our total market capitalization on the last balance sheet date included in the most recent quarterly report on Form 10-Q or annual report on Form 10-K that we file with the SEC. Thus, even if our total market capitalization and performance decline, we will still be required to make payments to our Advisor equal to the minimum base advisory fee, which could adversely impact our liquidity and financial condition.

Our long-term liquidity requirements consist primarily of funds necessary to pay for the costs of acquiring additional hotel properties and redevelopments, renovations, expansions and other capital expenditures that need to be made periodically with respect to our hotel properties and scheduled debt payments. We expect to meet our long-term liquidity requirements through various sources of capital, including future common and preferred equity issuances, existing working capital, net cash provided by operations, hotel mortgage indebtedness and other secured and unsecured borrowings. However, there are a number of factors that may have a material adverse effect on our ability to access these capital sources, the state of overall equity and credit markets, our degree of leverage, our unencumbered asset base and borrowing restrictions imposed by lenders (including as a result of any failure to comply with financial covenants in our existing and future indebtedness), general market conditions for REITs, our operating performance and liquidity and market perceptions about us. The success of our business strategy will

depend, in part, on our ability to access these various capital sources. While management cannot provide any assurances, management believes that our cash flow from operations and our existing cash balances will be adequate to meet upcoming anticipated requirements for interest and principal payments on debt (excluding any potential final maturity principal payments and paydowns for extension tests), working capital, and capital expenditures for the next 12 months and dividends required to maintain our status as a REIT for U.S. federal income tax purposes.

Our hotel properties will require periodic capital expenditures and renovation to remain competitive. In addition, acquisitions, redevelopments or expansions of hotel properties may require significant capital outlays. We may not be able to fund such capital improvements solely from net cash provided by operations because we must distribute annually at least 90% of our REIT taxable income, determined without regard to the deductions for dividends paid and excluding net capital gains, to qualify and maintain our qualification as a REIT, and we are subject to tax on any retained income and gains. As a result, our ability to fund capital expenditures, acquisitions or hotel redevelopment through retained earnings is very limited. Consequently, we expect to rely heavily upon the availability of debt or equity capital for these purposes. If we are unable to obtain the necessary capital on favorable terms, or at all, our financial condition, liquidity, results of operations and prospects could be materially and adversely affected.

Certain of our loan agreements contain cash trap provisions that may be triggered if the performance of our hotel properties declines. When these provisions are triggered, substantially all of the profit generated by the hotel properties securing such loan is deposited directly into lockbox accounts and then swept into cash management accounts for the benefit of our various lenders. This could affect our liquidity and our ability to make distributions to our stockholders until such time that a cash trap is no longer in effect for such loan. These cash trap provisions have been triggered on one mortgage loan, as discussed below. Our loan that is in a cash trap may remain subject to the cash trap provisions for a substantial period of time which could limit our flexibility and adversely affect our financial condition or our qualification as a REIT. As of June 30, 2024, The Ritz-Carlton Lake Tahoe was in a cash trap, although there was no cash trapped for this mortgage loan.

As of June 30, 2024, the Company held cash and cash equivalents of \$120.3 million and restricted cash of \$60.7 million, inclusive amounts in assets held for sale, the vast majority of which is comprised of lender and manager-held reserves. As of June 30, 2024, \$17.1 million was also due to the Company from third-party hotel managers, most of which is held by one of the Company's managers and is available to fund hotel operating costs. At June 30, 2024, our net debt to gross assets was 40.4%.

The Company's cash and cash equivalents are primarily comprised of corporate cash invested in short-term U.S. Treasury securities with maturity dates of less than 90 days and corporate cash held at commercial banks in Insured Cash Sweep ("ICS") accounts, which are fully insured by the FDIC. The Company's cash and cash equivalents also includes property-level operating cash deposited with commercial banks that have been designated as a Global Systemically Important Bank ("G-SIB") by the Financial Stability Board ("FSB") and a small amount deposited with other commercial banks.

#### **Equity Transactions**

On November 13, 2019, we filed an initial registration statement with the SEC, as amended on January 24, 2020, for shares of our non-traded Series E Redeemable Preferred Stock (the "Series E Preferred Stock") and our non-traded Series M Redeemable Preferred Stock (the "Series M Preferred Stock"). The registration statement became effective on February 21, 2020, and contemplates the issuance and sale of up to 20,000,000 shares of Series E Preferred Stock or Series M Preferred Stock in a primary offering and up to 8,000,000 shares of Series E Preferred Stock or Series M Preferred Stock pursuant to a dividend reinvestment plan. On February 25, 2020, we filed our prospectus with the SEC. Ashford Securities, a subsidiary of Ashford Inc., serves as the dealer manager and wholesaler of the Series E Preferred Stock and Series M Preferred Stock. On April 2, 2021, the Company filed with the State Department of Assessments and Taxation of the State of Maryland (the "SDAT") articles supplementary to the Company's Articles of Amendment and Restatement that provided for: (i) reclassifying the existing 28,000,000 shares of Series E Preferred Stock and 28,000,000 shares of Series M Preferred Stock as unissued shares of preferred stock; (ii) reclassifying and designating 28,000,000 shares of the Company's authorized capital stock as shares of the Series E Preferred Stock (the "Series E Articles Supplementary"); and (iii) reclassifying and designating 28,000,000 shares of the Company's authorized capital stock as shares of the Series M Preferred Stock (the "Series M Articles Supplementary"). The Series E Articles Supplementary and Series M Articles Supplementary were filed to revise the preferred stock terms related to the dividend rate, our optional redemption right and certain other voting rights. The Company also caused its operating partnership to execute Amendment No. 5 to the Third Amended and Restated Agreement of Limited Partnership to amend the terms of its operating partnership agreement to conform to the terms of the Series E Articles Supplementary and Series M Articles Supplementary. The Company issued approximately 16.4 million shares of Series E Preferred Stock and received net proceeds of approximately \$369.5 million and issued approximately 2.0 million shares of Series M Preferred Stock and received net proceeds of approximately \$47.6 million. On February 21, 2023, the Company announced the closing of its offering of the Series E Preferred Stock and Series M Preferred Stock.

On July 12, 2021, the Company entered into an equity distribution agreement (the "Virtu July 2021 EDA") with Virtu to sell from time to time shares of our common stock having an aggregate offering price of up to \$100 million. We will pay Virtu a commission of approximately 1.0% of the gross sales price of the shares of our common stock sold. The Company may also sell some or all of the shares of our common stock to Virtu as principal for its own account at a price agreed upon at the time of sale. As of August 6, 2024, the Company has sold approximately 4.7 million shares of common stock under the Virtu July 2021 EDA and received gross proceeds of approximately \$24.0 million.

On May 3, 2024, our board of directors approved a new share repurchase program, pursuant to which the board of directors granted a repurchase authorization to acquire shares of the Company's common stock, par value \$0.01 per share, having an aggregate value of up to \$50 million. The Company intends to begin share repurchases as soon as practicable and may repurchase shares through open market transactions, privately negotiated transactions or other means. The timing and amount of any transactions will be subject to the discretion of the Company based upon market conditions, and the program may be suspended or terminated at any time by the Company at its discretion without prior notice. The board of directors' authorization replaced any previous repurchase authorizations. As of June 30, 2024, the Company has not repurchased any common stock pursuant to the plan.

#### **Debt Transactions**

On January 3, 2024, the Company extended the mortgage loan secured by the Pier House Resort & Spa in Key West, Florida. The mortgage loan has an initial maturity date of September 2025 with one one-year extension option, subject to the satisfaction of certain conditions, continues to have a balance of \$80.0 million, and bears interest at a floating interest rate of SOFR + 3.60%.

On January 29, 2024, the Company extended the mortgage loan secured by The Ritz-Carlton St. Thomas in St. Thomas, USVI. The mortgage loan has an initial maturity date of August 2025 with one one-year extension option, subject to the satisfaction of certain conditions, continues to have a balance of \$42.5 million, and bears interest at a floating interest rate of SOFR + 4.35%.

On February 5, 2024, the Company amended the mortgage loan secured by the Hilton La Jolla Torrey Pines. At the time, the hotel property remained encumbered by the original mortgage loan, which had been partially paid down to a remaining balance of \$66.6 million. The lender also provided a six-month extension. The mortgage loan bore an annual fixed interest rate of 9.0%.

On March 7, 2024, the Company closed on a \$62.0 million non-recourse loan secured by the Ritz-Carlton Reserve Dorado Beach. The mortgage loan has a two-year term, is interest only and provides for a floating interest rate of SOFR + 4.75%.

In April 2024, the Company repaid the \$30.0 million mortgage loan secured by the Cameo Beverly Hills hotel.

On July 17, 2024, the Company sold the Hilton La Jolla Torrey Pines hotel pursuant to an Agreement of Purchase and Sale, entered into effective May 6, 2024, for \$165 million in cash, subject to customary pro-rations and adjustments. The Company owned an indirect 75% equity interest in the hotel property. Additionally, the Company repaid the \$66.6 million mortgage loan secured by the hotel property.

On August 7, 2024, the Company closed on a refinancing involving five hotels. The new loan totals \$407 million and has a two-year initial term with three one-year extension options, subject to the satisfaction of certain conditions, taking the final maturity to 2029. The loan is interest only and provides for a floating interest rate of SOFR + 3.24%. As part of this financing, the Company acquired \$42.2 million of the most junior tranche of the loan, which lowered its net spread on the \$364.8 million remaining loan amount to SOFR + 3.01%. The loan is secured by five hotels: Pier House Resort & Spa, Bardessono Hotel & Spa, Hotel Yountville, The Ritz-Carlton Sarasota, and The Ritz-Carlton St. Thomas. The new loan refinanced the \$80.0 million loan secured by the Pier House Resort & Spa which had an interest rate of SOFR + 3.60% and had a final maturity date in September 2025, the \$42.5 million loan secured by The Ritz-Carlton St. Thomas which had an interest rate of SOFR + 4.35% and had a final maturity date in August 2026, and the \$200.0 million secured credit facility secured by The Ritz-Carlton Sarasota, Hotel Yountville, and Bardessono Hotel & Spa which had an interest rate of SOFR + 3.10% and had a final maturity date in July 2027.

#### **Sources and Uses of Cash**

We had approximately \$120.3 million (including amounts held for sale) and \$85.6 million of cash and cash equivalents at June 30, 2024 and December 31, 2023, respectively. We anticipate that our principal sources of funds to meet our cash requirements will include cash on hand, positive cash flow from operations and capital market activities.

**Net Cash Flows Provided by (Used in) Operating Activities.** Net cash flows provided by operating activities were \$60.2 million and \$62.0 million for the six months ended June 30, 2024 and 2023, respectively. Cash flows from operations were impacted by changes in hotel operations. Cash flows from operations are also impacted by the timing of working capital cash flows, such as collecting receivables from hotel guests, paying vendors, settling with derivative counterparties, settling with related parties and settling with hotel managers.

**Net Cash Flows Provided by (Used in) Investing Activities.** For the six months ended June 30, 2024, net cash flows used in investing activities were \$38.7 million. These cash outflows were primarily attributable to \$39.2 million of capital improvements made to various hotel properties partially offset by cash inflows of \$542,000 related to proceeds from property insurance. Our capital improvements consisted of approximately \$28.6 million of return on investment capital projects and approximately \$10.6 million of renewal and replacement capital projects.

For the six months ended June 30, 2023, net cash flows used in investing activities were \$36.1 million. These cash outflows were primarily attributable to \$36.2 million of capital improvements made to various hotel properties and a \$158,000 loan to OpenKey partially offset by cash inflows of \$327,000 related to proceeds from property insurance. Our capital improvements consisted of approximately \$24.3 million of return on investment capital projects and approximately \$11.9 million of renewal and replacement capital projects.

Return on investment capital projects are designed to improve the positioning of our hotel properties within their markets and competitive sets. Renewal and replacement capital projects are designed to maintain the quality and competitiveness of our hotels.

**Net Cash Flows Provided by (Used in) Financing Activities.** For the six months ended June 30, 2024, net cash flows used in financing activities were \$6.9 million. Cash outflows primarily consisted of \$30.0 million of repayments of indebtedness, \$26.2 million of dividend and distribution payments, \$1.3 million to purchase interest rate caps, \$3.3 million of payments of loan costs and exit fees and \$11.0 million for cash redemptions of Series E and Series M preferred stock. These cash outflows were partially offset by cash inflows of \$62.0 million from borrowings on indebtedness and \$3.3 million of proceeds from in-the-money interest rate caps.

For the six months ended June 30, 2023, net cash flows used in financing activities were \$150.1 million. Cash outflows primarily consisted of repayments of indebtedness of \$196.4 million, \$26.1 million of dividend and distribution payments, \$19.3 million of payments to repurchase common stock, payments of \$7.2 million for the redemption of operating partnership units, \$3.4 million to purchase interest rate caps, \$2.0 million of distributions to a noncontrolling interest in consolidated entities and \$904,000 for cash redemptions of Series E and Series M preferred stock. These cash outflows were partially offset by cash inflows of \$97.9 million from the issuance of preferred stock, \$4.1 million of contributions from a noncontrolling interest in consolidated entities and \$4.0 million of proceeds from in-the-money interest rate caps.

**Dividend Policy.** On December 5, 2023, our board of directors approved the Company's dividend policy for 2024. The Company expects to pay a quarterly cash dividend of \$0.05 per share for the Company's common stock for 2024, or \$0.20 per share on an annualized basis. On April 5, 2024, our board of directors declared a quarterly cash dividend of \$0.05 per diluted share, for the second quarter of 2024. On July 10, 2024, our board of directors declared a quarterly cash dividend of \$0.05 per diluted share, for the third quarter of 2024. The approval of our dividend policy does not commit our board of directors to declare future dividends with respect to any quantity or the amount thereof. The board of directors will continue to review our dividend policy on a quarter-to-quarter basis and make announcements with respect thereto. For income tax purposes, distributions paid consist of ordinary income, capital gains, return of capital or a combination thereof.

#### **Seasonality**

Our properties' operations historically have been seasonal as certain properties maintain higher occupancy rates during the summer months and some during the winter months. This seasonality pattern can cause fluctuations in our quarterly lease revenue under our percentage leases. Quarterly revenue also may be adversely affected by renovations and repositionings, our managers' effectiveness in generating business and by events beyond our control, such as pandemics, extreme weather conditions, natural disasters, terrorist attacks or alerts, civil unrest, government shutdowns, airline strikes or reduced airline capacity, economic factors and other considerations affecting travel. To the extent that cash flows from operations and cash on hand are insufficient during any quarter due to temporary or seasonal fluctuations in lease revenue, we expect to utilize borrowings to fund distributions required to maintain our REIT status. However, we cannot make any assurances that we will make distributions in the future.

### **Critical Accounting Policies and Estimates**

The preparation of our consolidated financial statements in accordance with accounting principles generally accepted in the United States requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates. Our accounting policies that are critical or most important to understanding our financial condition and results of operations and that require management to make the most difficult judgments are described in the section "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in our 2023 Form 10-K. There have been no material changes in these critical accounting policies.

### **Non-GAAP Financial Measures**

The following non-GAAP presentations of EBITDA, EBITDAre, Adjusted EBITDAre, FFO and Adjusted FFO are presented to help our investors evaluate our operating performance.

EBITDA is defined as net income (loss) before interest expense and amortization of loan costs, depreciation and amortization, income taxes, equity in (earnings) loss of unconsolidated entity and after the Company's portion of EBITDA of OpenKey. In addition, we exclude impairment on real estate, (gain) loss on insurance settlement and disposition of assets and Company's portion of EBITDAre of OpenKey from EBITDA to calculate EBITDA for real estate, or EBITDAre, as defined by NAREIT.

We then further adjust EBITDAre to exclude certain additional items such as amortization of favorable (unfavorable) contract assets (liabilities), transaction and conversion costs, other income/expense, write-off of loan costs and exit fees, gain/loss on insurance settlements, advisory and settlement costs, advisory services incentive fee, gain/loss on extinguishment of debt, stock/unit-based compensation and the Company's portion of adjustments to EBITDAre of OpenKey and non-cash items such as unrealized gain/ loss on derivatives.

We present EBITDA, EBITDAre and Adjusted EBITDAre because we believe they are useful to an investor in evaluating our operating performance because they provide investors with an indication of our ability to incur and service debt, to satisfy general operating expenses, to make capital expenditures and to fund other cash needs or reinvest cash into our business. We also believe they help investors meaningfully evaluate and compare the results of our operations from period to period by removing the effect of our asset base (primarily depreciation and amortization) from our operating results. Our management team also uses EBITDA as one measure in determining the value of acquisitions and dispositions. EBITDA, EBITDAre and Adjusted EBITDAre as calculated by us may not be comparable to EBITDA, EBITDAre and Adjusted EBITDAre reported by other companies that do not define EBITDA, EBITDAre and Adjusted EBITDAre exactly as we define the terms. EBITDA, EBITDAre and Adjusted EBITDAre do not represent cash generated from operating activities determined in accordance with GAAP, and should not be considered as an alternative to operating income or net income determined in accordance with GAAP as an indicator of performance or as an alternative to cash flows from operating activities as determined by GAAP as an indicator of liquidity.

The following table reconciles net income (loss) to EBITDA, EBITDAre and Adjusted EBITDAre (in thousands) (unaudited):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
<b>Net income (loss)</b>	\$ (13,787)	\$ (3,138)	\$ 1,695	\$ 13,466
Interest expense and amortization of loan costs	27,285	23,600	53,776	46,473
Depreciation and amortization	24,694	22,567	50,114	45,088
Income tax expense (benefit)	(114)	(75)	1,338	2,254
Equity in (earnings) loss of unconsolidated entity	85	75	134	148
Company's portion of EBITDA of OpenKey	(82)	(80)	(139)	(157)
<b>EBITDA and EBITDAre</b>	<b>38,081</b>	<b>42,949</b>	<b>106,918</b>	<b>107,272</b>
Amortization of favorable (unfavorable) contract assets (liabilities)	118	118	237	237
Transaction and conversion costs	53	1,056	(5,574)	2,251
Write-off of premiums, loan costs and exit fees	82	248	803	260
Realized and unrealized (gain) loss on derivatives	(326)	(1,029)	(1,258)	(695)
Stock/unit-based compensation	1,135	2,899	2,262	5,227
Legal, advisory and settlement costs	2,870	12	4,817	81
Advisory services incentive fee	648	—	648	—
(Gain) loss on extinguishment of debt	22	—	22	(2,318)
Company's portion of adjustments to EBITDAre of OpenKey	3	—	3	—
<b>Adjusted EBITDAre</b>	<b>\$ 42,686</b>	<b>\$ 46,253</b>	<b>\$ 108,878</b>	<b>\$ 112,315</b>

FFO is calculated on the basis defined by NAREIT, which is net income (loss) attributable to common stockholders, computed in accordance with GAAP, excluding gains or losses on insurance settlement and disposition of assets, plus impairment charges on real estate, depreciation and amortization of real estate assets, and after redeemable noncontrolling interests in the operating partnership and adjustments for unconsolidated entities. NAREIT developed FFO as a relative measure of performance of an equity REIT to recognize that income-producing real estate historically has not depreciated on the basis determined by GAAP. Our calculation of Adjusted FFO excludes transaction and conversion costs, other income/expense, write-off of loan costs and exit fees, legal, advisory and settlement costs, advisory services incentive fee, stock/unit-based compensation, gain/loss on insurance settlements, gain/loss on extinguishment of debt, and non-cash items such as deemed dividends on redeemable preferred stock, interest expense accretion on refundable membership club deposits, amortization of loan costs, unrealized gain/loss on derivatives and the Company's portion of adjustments to FFO of OpenKey. FFO and Adjusted FFO exclude amounts attributable to the portion of a partnership owned by the third party. We present FFO and Adjusted FFO because we consider FFO and Adjusted FFO important supplemental measures of our operational performance and believe they are frequently used by securities analysts, investors and other interested parties in the evaluation of REITs, many of which present FFO and Adjusted FFO when reporting their results. FFO and Adjusted FFO are intended to exclude GAAP historical cost depreciation and amortization, which assumes that the value of real estate assets diminishes ratably over time. Historically, however, real estate values have risen or fallen with market conditions. Because FFO and Adjusted FFO exclude depreciation and amortization related to real estate assets, gains and losses from real property dispositions and impairment losses on real estate assets, FFO and Adjusted FFO provide performance measures that, when compared year over year, reflect the effect to operations from trends in occupancy, guestroom rates, operating costs, development activities and interest costs, providing perspective not immediately apparent from net income. We consider FFO and Adjusted FFO to be appropriate measures of our ongoing normalized operating performance as a REIT. We compute FFO in accordance with our interpretation of standards established by NAREIT, which may not be comparable to FFO reported by other REITs that either do not define the term in accordance with the current NAREIT definition or interpret the NAREIT definition differently than us. FFO and Adjusted FFO do not represent cash generated from operating activities as determined by GAAP and should not be considered as an alternative to GAAP net income or loss as an indication of our financial performance or GAAP cash flows from operating activities as a measure of our liquidity. FFO and Adjusted FFO are also not indicative of funds available to satisfy our cash needs, including our ability to make cash distributions. However, to facilitate a clear understanding of our historical operating results, we believe that FFO and Adjusted FFO should be considered along with our net income or loss and cash flows reported in our condensed consolidated financial statements.

The following table reconciles net income (loss) to FFO and Adjusted FFO (in thousands) (unaudited):

	Three Months Ended June		Six Months Ended June	
	30,		30,	
	2024	2023	2024	2023
<b>Net income (loss)</b>	\$ (13,787)	\$ (3,138)	\$ 1,695	\$ 13,466
(Income) loss attributable to noncontrolling interest in consolidated entities	303	367	1,046	58
Net (Income) loss attributable to redeemable noncontrolling interests in operating partnership	1,919	925	1,623	664
Preferred dividends	(10,329)	(10,877)	(20,736)	(21,227)
Deemed dividends on preferred stock	(26)	(301)	(2,024)	(2,755)
<b>Net income (loss) attributable to common stockholders</b>	(21,920)	(13,024)	(18,396)	(9,794)
Depreciation and amortization on real estate <sup>(1)</sup>	23,696	21,763	47,876	43,548
Net income (loss) attributable to redeemable noncontrolling interests in operating partnership	(1,919)	(925)	(1,623)	(664)
Equity in (earnings) loss of unconsolidated entity	85	75	134	148
Company's portion of FFO of OpenKey	(95)	(85)	(162)	(163)
<b>FFO available to common stockholders and OP unitholders</b>	(153)	7,804	27,829	33,075
Deemed dividends on preferred stock	26	301	2,024	2,755
Transaction and conversion costs	53	1,056	(5,574)	2,251
Write-off of premiums, loan costs and exit fees	82	248	803	260
Unrealized (gain) loss on derivatives	1,213	1,253	1,952	3,454
Stock/unit-based compensation	1,135	2,899	2,262	5,227
Legal, advisory and settlement costs	2,870	12	4,817	81
Interest expense accretion on refundable membership club deposits	150	164	315	342
Amortization of loan costs	1,319	661	2,527	1,400
Advisory services incentive fee	648	—	648	—
(Gain) loss on extinguishment of debt	22	—	22	(2,318)
Company's portion of adjustments to FFO of OpenKey	3	—	3	—
<b>Adjusted FFO available to common stockholders and OP unitholders</b>	\$ 7,368	\$ 14,398	\$ 37,628	\$ 46,527

<sup>(1)</sup> Net of adjustment for noncontrolling interest in consolidated entities. The following table presents the amounts of the adjustments for noncontrolling interests for each line item:

	Three Months Ended June		Six Months Ended June	
	30,		30,	
	2024	2023	2024	2023
Depreciation and amortization on real estate	\$ (998)	\$ (804)	\$ (2,238)	\$ (1,540)
Amortization of loan costs	(132)	(24)	(235)	(47)

The following table presents certain information related to our hotel properties:

Hotel Property	Location	Total Rooms	% Owned	Owned Rooms
<b>Fee Simple Properties</b>				
Capital Hilton	Washington, D.C.	559	75 %	419
Marriott Seattle Waterfront	Seattle, WA	369	100 %	369
The Notary Hotel	Philadelphia, PA	499	100 %	499
The Clancy	San Francisco, CA	410	100 %	410
Sofitel Chicago Magnificent Mile	Chicago, IL	415	100 %	415
Pier House Resort & Spa	Key West, FL	142	100 %	142
The Ritz-Carlton St. Thomas	St. Thomas, USVI	180	100 %	180
Park Hyatt Beaver Creek Resort & Spa	Beaver Creek, CO	193	100 %	193
Hotel Yountville	Yountville, CA	80	100 %	80
The Ritz-Carlton Sarasota	Sarasota, FL	276	100 %	276
The Ritz-Carlton Lake Tahoe <sup>(1)</sup>	Truckee, CA	170	100 %	170
Cameo Beverly Hills <sup>(2)</sup>	Los Angeles, CA	143	100 %	143
The Ritz-Carlton Reserve Dorado Beach <sup>(3)</sup>	Dorado, Puerto Rico	96	100 %	96
Four Seasons Resort Scottsdale	Scottsdale, AZ	210	100 %	210
<b>Ground Lease Properties <sup>(4)</sup></b>				
Hilton La Jolla Torrey Pines <sup>(5)</sup>	La Jolla, CA	394	75 %	296
Bardessono Hotel and Spa <sup>(6)</sup>	Yountville, CA	65	100 %	65
<b>Total</b>		<b>4,201</b>		<b>3,963</b>

<sup>(1)</sup> The above information does not include the operations of the voluntary rental program with respect to condominium units not owned by the Company.

<sup>(2)</sup> Includes 138 hotel rooms and five residences adjacent to the hotel. On August 1, 2023, the Company announced the rebranding and planned conversion of its Mr. C Beverly Hills in Los Angeles, California to the Cameo Beverly Hills. Following an extensive renovation, which is expected to be completed by the end of 2025, the hotel will join LXR Hotels & Resorts.

<sup>(3)</sup> The above information does not include the operations of the voluntary rental program with respect to residential units not owned by the Company.

<sup>(4)</sup> Some of our hotel properties are on land subject to ground leases, two of which cover the entire property.

<sup>(5)</sup> The ground lease expires in 2067. The ground lease contains one extension option of either 10 or 20 years dependent upon capital investment during the lease term. The hotel property was sold in July 2024 and the ground lease transferred to the buyer.

<sup>(6)</sup> The initial ground lease expires in 2065. The ground lease contains two 25-year extension options, at our election.

### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

Our primary market risk exposure consists of changes in interest rates on borrowings under our debt instruments that bear interest at variable rates that fluctuate with market interest rates. To the extent that we acquire assets or conduct operations in an international jurisdiction, we will also have currency exchange risk. We may enter into certain hedging arrangements in order to manage interest rate and currency fluctuations. The analysis below presents the sensitivity of the market value of our financial instruments to selected changes in market interest rates.

At June 30, 2024, our total indebtedness of approximately \$1.2 billion included approximately \$1.1 billion of variable-rate debt. The impact on the results of operations of a 25-basis point change in the interest rate on the outstanding balance of variable-rate debt at June 30, 2024, would be approximately \$2.6 million per year. However, we currently have various interest rate caps in place that limit this exposure. Interest rate changes have no impact on the remaining \$152.9 million of fixed-rate debt.

The above amounts were determined based on the impact of hypothetical interest rates on our borrowings and assume no changes in our capital structure. The information presented above includes those exposures that existed at June 30, 2024, but it does not consider exposures or positions that could arise after that date. Accordingly, the information presented herein has limited predictive value. As a result, the ultimate realized gain or loss with respect to interest rate fluctuations will depend on exposures that arise during the period, the hedging strategies at the time, and the related interest rates.

### ITEM 4. CONTROLS AND PROCEDURES

Under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, our management has evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of June 30, 2024. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that, as of June 30, 2024, our disclosure controls and procedures are effective to ensure that (i) information required to be disclosed in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and (ii) information

required to be disclosed in the reports that we file or submit under the Exchange Act is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, to allow timely decisions regarding required disclosures.

There have been no changes in our internal controls over financial reporting during our most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

## PART II. OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS

On December 20, 2016, a class action lawsuit was filed against one of the Company's hotel management companies in the Superior Court of the State of California in and for the County of Contra Costa alleging violations of certain California employment laws, which class action affects two hotels owned by subsidiaries of the Company. The court has entered an order granting class certification with respect to: (i) a statewide class of non-exempt employees of our manager who were allegedly deprived of rest breaks as a result of our manager's previous written policy requiring its employees to stay on premises during rest breaks; and (ii) a derivative class of non-exempt former employees of our manager who were not paid for allegedly missed breaks upon separation from employment. Notices to potential class members were sent out on February 2, 2021. Potential class members had until April 4, 2021 to opt out of the class; however, the total number of employees in the class has not been definitively determined and is the subject of continuing discovery. The opt-out period has been extended until such time that discovery has concluded. In May 2023, the trial court requested additional briefing from the parties to determine whether the case should be maintained, dismissed, or the class de-certified. After submission of the briefs, the court requested that the parties submit stipulations for the court to rule upon. On February 13, 2024, the judge ordered the parties to submit additional briefing related to on-site breaks. While we believe it is reasonably possible that we may incur a loss associated with this litigation, because there remains uncertainty under California law with respect to a significant legal issue, discovery relating to class members continues, and the trial judge retains discretion to award lower penalties than set forth in the applicable California employment laws, we do not believe that any potential loss to the Company is reasonably estimable at this time. As of June 30, 2024, no amounts have been accrued.

On June 8, 2022 a lawsuit was filed against various Hilton entities on behalf of a class of all hourly employees at all Hilton-branded managed properties in California, including Hilton La Jolla Torrey Pines. The complaint includes claims for unpaid wages, meal and rest break violations, and unreimbursed business expenses, along with various derivative claims including wage statement, final pay, and Private Attorneys General Act ("PAGA") claims.

On November 30, 2023, Hilton mediated this litigation, but it did not result in a settlement. At the end of the mediation, the mediator submitted a mediator's proposal for approximately \$3.5 million, which the parties have since agreed to. The allocation to Hilton La Jolla Torrey Pines is approximately \$371,000, which has been accrued as of June 30, 2024.

We are also engaged in other legal proceedings that have arisen but have not been fully adjudicated. To the extent the claims giving rise to these legal proceedings are not covered by insurance, they relate to the following general types of claims: employment matters, tax matters and matters relating to compliance with applicable law (for example, the Americans with Disabilities Act and similar state laws). The likelihood of loss from these legal proceedings is based on the definitions within contingency accounting literature. We recognize a loss when we believe the loss is both probable and reasonably estimable. Based on the information available to us relating to these legal proceedings and/or our experience in similar legal proceedings, we do not believe the ultimate resolution of these proceedings, either individually or in the aggregate, will have a material adverse effect on our consolidated financial position, results of operations, or cash flow.

During the quarter ended September 30, 2023, we had a cyber incident that resulted in the potential exposure of certain employee personal information. We have completed an investigation and have identified certain employee information that may have been exposed, but we have not identified that any customer information was exposed. All systems have been restored. We believe that we maintain a sufficient level of insurance coverage related to such events, and the related incremental costs incurred to date are immaterial. In February of 2024, two class action lawsuits were filed, one in the U.S. District Court for the Northern District of Texas and a second in the 68th District Court for Dallas County related to the cyber incident. The lawsuit filed in the 68th District Court was subsequently dismissed and refiled in the U.S. District Court for the Northern District of Texas. On March 12, 2024, the court ordered the two cases be consolidated. The consolidated case is currently pending in the U.S. District Court for the Northern District of Texas. On May 17, 2024, we filed a Motion to Dismiss the Consolidated Class Action Complaint, which is currently pending before the Court. We intend to vigorously defend this matter and do not believe that any potential loss is reasonably estimable at this time. It is reasonably possible that the Company may incur additional costs related to the matter, but we are unable to predict with certainty the ultimate amount or range of potential loss.

Our assessment may change depending upon the development of any current or future legal proceedings, and the final results of such legal proceedings cannot be predicted with certainty. If we ultimately do not prevail in one or more of these legal matters, and the associated realized losses exceed our current estimates of the range of potential losses, our consolidated financial position, results of operations, or cash flows could be materially adversely affected in future periods.

#### **ITEM 1A. RISK FACTORS**

The discussion of our business and operations should be read together with the risk factors contained in Item 1A to Part I of our Annual Report on Form 10-K for the fiscal year ended December 31, 2023, filed with the SEC, which describe various risks and uncertainties to which we are or may become subject. These risks and uncertainties have the potential to affect our business, financial condition, results of operations, cash flows, strategies, or prospects in a material and adverse manner. As of June 30, 2024, there have been no material changes to the risk factors set forth in our Annual Report on Form 10-K for the year ended December 31, 2023.

#### **ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**

##### **Purchases of Equity Securities by the Issuer**

On May 3, 2024, our board of directors approved a new share repurchase program, pursuant to which the board of directors granted a repurchase authorization to acquire shares of the Company's common stock, par value \$0.01 per share, having an aggregate value of up to \$50 million. The Company intends to begin share repurchases as soon as practicable and may repurchase shares through open market transactions, privately negotiated transactions or other means. The timing and amount of any transactions will be subject to the discretion of the Company based upon market conditions, and the program may be suspended or terminated at any time by the Company at its discretion without prior notice. The board of directors' authorization replaced any previous repurchase authorizations.

The following table provides the information with respect to purchases and forfeitures of our common stock during each of the months in the second quarter of 2024:

Period	Total Number of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of a Publicly Announced Plan	Maximum Dollar Value of Shares That May Yet Be Purchased Under the Plan
<b>Common stock:</b>				
April 1 to April 30	—	\$ —	—	—
May 1 to May 31	—	\$ —	—	\$ 50,000,000
June 1 to June 30	—	\$ —	—	\$ 50,000,000
<b>Total</b>	<b>—</b>	<b>\$ —</b>	<b>—</b>	<b>—</b>

#### **ITEM 3. DEFAULTS UPON SENIOR SECURITIES**

None.

#### **ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

#### **ITEM 5. OTHER INFORMATION**

##### **Rule 10b5-1 Trading Agreements**

During the three months ended June 30, 2024, no director or officer of the Company adopted or terminated a "Rule 10b5-1 trading agreement" or "non-Rule 10b5-1 trading agreement," as each term is defined in Item 408(a) of Regulation S-K.

##### **Limited Waiver Under Advisory Agreement**

The Company, Braemar OP, Braemar TRS, Ashford Inc. and Ashford Hospitality Advisors LLC (together with Ashford Inc., the "Advisor"), are parties to that certain Fifth Amended and Restated Advisory Agreement, dated as of April 23, 2018 (as amended, the "Advisory Agreement").

The Company has a mortgage loan maturing in June 2025 with an outstanding principal balance of approximately \$293 million (the "Loan") secured by four hotel properties: The Notary Hotel; The Clancy; Sofitel Chicago Magnificent Mile; and Marriott Seattle Waterfront (the "Hotel Properties"). On August 8, 2024, the parties to the Advisory Agreement entered into a Limited Waiver Under Advisory Agreement (the "Waiver Agreement") that provides, among other things, as follows:

(i) From August 8, 2024 until the earlier of (i) November 15, 2025 and (ii) the refinancing of the Loan (the "Loan Outside Date"), the Advisor waives the operation of Section 12.4(a) of the Advisory Agreement that would permit the Advisor to terminate the Advisory Agreement occurring solely as a result from the sale or disposition of one or more of the Hotel Properties as a result of a mortgage foreclosure, deed-in-lieu of mortgage foreclosure, mezzanine loan foreclosure or an assignment in-lieu of a mezzanine loan foreclosure following the failure of the Company to pay, upon the maturity of the Loan, all amounts due and payable thereunder (the "Limited Waiver");

(ii) Upon the satisfaction of certain conditions, the Company may request the Advisor agree to amend the Waiver Agreement to extend the Loan Outside Date for a period not to exceed ninety (90) days from November 15, 2025 and if the Advisor agrees to such amendment, the Advisor shall not be entitled to any further consideration in respect thereof;

(iii) If the members of the Board of Directors of the Company (the "Board") change such that members who constitute the Board as of August 8, 2024 (the "Incumbent Board") no longer constitute at least a majority of the Board (other than those whose election to the Board is approved or recommended to stockholders of the Company by a vote of at least a majority of the Incumbent Board), the Limited Waiver shall be null and void ab initio (but the consideration provided by the Company to the Advisor as described in item (iv) below shall remain in force); and

(iv) In exchange for the Limited Waiver and the other agreements provided by the Advisor in the Waiver Agreement, the Company agrees to pay the Advisor an amount equal to the Advisor's obligation under the Advisor's current employment agreement with Richard J. Stockton, the Company's President and Chief Executive Officer (the "Stockton Employment Agreement"), to pay Mr. Stockton a multiple of his Base Salary (as defined in the Stockton Employment Agreement) that becomes payable by the Advisor to Mr. Stockton as the result of the occurrence of certain events as more fully described in the Waiver Agreement.

The foregoing description of the Waiver Agreement contained in this Item 5 does not purport to be complete and is subject to and qualified in its entirety by the full text of the Waiver Agreement, a copy of which is attached hereto as Exhibit 10.8 and incorporated herein by reference.

## ITEM 6. EXHIBITS

Exhibit	Description
3.1	<a href="#">Articles of Amendment and Restatement of Braemar Hotels &amp; Resorts Inc. (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed on April 29, 2016) (File No. 001-35972).</a>
3.2	<a href="#">Articles Supplementary of Braemar Hotels &amp; Resorts Inc. (incorporated by reference to Exhibit 3.2 to the Current Report on Form 8-K filed on May 18, 2015) (File No. 001-35972).</a>
3.3	<a href="#">Articles of Amendment of Braemar Hotels &amp; Resorts Inc. (incorporated by reference to Exhibit 3.2 to the Current Report on Form 8-K filed on April 29, 2016) (File No. 001-35972).</a>
3.4	<a href="#">Amendment Number One to the Articles of Amendment and Restatement of Braemar Hotels &amp; Resorts Inc. (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed on December 8, 2017) (File No. 001-35972).</a>
3.5	<a href="#">Amendment Number Two to Articles of Amendment and Restatement of Braemar Hotels &amp; Resorts Inc. (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed on April 23, 2018) (File No. 001-35972).</a>
3.6	<a href="#">Articles of Amendment of Braemar Hotels &amp; Resorts Inc., accepted for record and certified by the SDAT on January 23, 2020 (incorporated by reference to Exhibit 3.13 to Amendment No. 1 to the Registration Statement on Form S-3 filed with the SEC on January 24, 2020) (File No. 333-234663).</a>
3.7	<a href="#">Fifth Amended and Restated Bylaws, as amended by Amendment No.1 on February 27, 2024, adopted on February 27,2024 (incorporated by reference to Exhibit 3.2 to the Current Report on Form 8-K filed on March 1, 2024) (File No. 001-35972).</a>
10.1	<a href="#">Amendment No. 2 to the Master Project Management Agreement, dated as of February 12, 2024, by and among Braemar TRS Corporation, CHH III Tenant Parent Corp., RC Hotels (Virgin Islands), Inc., Premier Project Management LLC and Braemar Hospitality Limited Partnership (incorporated by reference to Exhibit 10.37 to the Annual Report on Form 10-K filed on March 14, 2024 (File No. 001-35972).</a>

Exhibit	Description
10.2	<a href="#">Limited Waiver Under Advisory Agreement, dated as of March 11, 2024, by and among Braemar Hotels &amp; Resorts Inc., Braemar Hospitality Limited Partnership, Braemar TRS Corporation, Ashford Inc., and Ashford Hospitality Advisors LLC (incorporated by reference to Exhibit 10.38 to the Annual Report on Form 10-K filed on March 14, 2024 (File No. 001-35972)).</a>
10.3	<a href="#">First Amendment to Credit Agreement, dated as of February 21, 2024, by and among Braemar Hospitality Limited Partnership, Braemar Hotels &amp; Resorts Inc., the lenders party thereto and Bank of America, N.A. (incorporated by reference to Exhibit 10.39 to the Annual Report on Form 10-K filed on March 14, 2024 (File No. 001-35972)).</a>
10.4*	<a href="#">Agreement of Purchase and Sale, dated as of May 6, 2024, by and among JRK Torrey Pines Hotel Owner LLC and CHH Torrey Pines Hotel Partners, LP and CHH Torrey Pines Tenant Corp.</a>
10.5	<a href="#">Cooperation Agreement, dated July 2, 2024, by and among Braemar Hotels &amp; Resorts Inc., Ashford Hospitality Trust, Inc., Ashford Inc., Blackwells Capital LLC, Blackwells Onshore I LLC, Blackwells Holding Co. LLC, Vandewater Capital Holdings, LLC, Blackwells Asset Management LLC, BW Coinvest Management I LLC and Jason Aintabi (incorporated by reference to Exhibit 10.1 to the Current Report on 8-K filed on July 2, 2024) (File No. 001-35972).</a>
10.6	<a href="#">Share Ownership Agreement, dated July 2, 2024, by and among Braemar Hotels &amp; Resorts Inc., Ashford Hospitality Trust, Inc., Ashford Inc., Blackwells Capital LLC, Blackwells Onshore I LLC, Blackwells Holding Co. LLC, Vandewater Capital Holdings, LLC, Blackwells Asset Management LLC, BW Coinvest Management I LLC and Jason Aintabi (incorporated by reference to Exhibit 10.2 to the Current Report on 8-K filed on July 2, 2024) (File No. 001-35972).</a>
10.7	<a href="#">Loan Agreement, dated July 2, 2024, by and between BW Coinvest I, LLC, Jason Aintabi, Vandewater Capital Holdings, LLC, Blackwells Holding Co. LLC, Blackwells Asset Management LLC and Braemar Hospitality Limited Partnership (incorporated by reference to Exhibit 10.3 to the Current Report on 8-K filed on July 2, 2024) (File No. 001-35972).</a>
10.8*	<a href="#">Limited Waiver Under Advisory Agreement, dated August 8, 2024, by and among Braemar Hotels &amp; Resorts Inc., Braemar Hospitality Limited Partnership, Braemar TRS Corporation, Ashford Inc. and Ashford Hospitality Advisors LLC.</a>
31.1*	<a href="#">Certifications of Chief Executive Officer Pursuant to Rule 13a-14(a) and Rule 15d-14(a) of Securities Exchange Act of 1934, as amended.</a>
31.2*	<a href="#">Certifications of Chief Financial Officer Pursuant to Rule 13a-14(a) and Rule 15d-14(a) of Securities Exchange Act of 1934, as amended.</a>
32.1**	<a href="#">Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
32.2**	<a href="#">Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>

The following materials from the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2024 are formatted in XBRL (Extensible Business Reporting Language): (i) Consolidated Balance Sheets; (ii) Consolidated Statements of Operations; (iii) Consolidated Statements Comprehensive Income; (iv) Consolidated Statements of Equity; (v) Consolidated Statements of Cash Flows; and (vi) Notes to the Consolidated Financial Statements. In accordance with Rule 402 of Regulation S-T, the XBRL-related information in Exhibit 101 to this Quarterly Report on Form 10-Q shall not be deemed to be "filed" for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be part of any registration statement or other document filed under the Securities Act of 1933, as amended or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.	
101.SCH	Inline XBRL Taxonomy Extension Schema Document	Submitted electronically with this report.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document	Submitted electronically with this report.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document	Submitted electronically with this report.
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.	Submitted electronically with this report.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.	Submitted electronically with this report.
104	Cover Page Interactive Data File (formatted in Inline XBRL and contained in Exhibit 101)	

\* Filed herewith.

\*\* Furnished herewith.

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

BRAEMAR HOTELS & RESORTS INC.

Date: August 8, 2024

By: /s/ RICHARD J. STOCKTON

Richard J. Stockton

President and Chief Executive Officer

Date: August 8, 2024

By: /s/ DERIC S. EUBANKS

Deric S. Eubanks

Chief Financial Officer

**AGREEMENT OF PURCHASE AND SALE**

by and among

**JRK Torrey Pines Hotel Owner LLC,**  
a Delaware limited liability company

(“Purchaser”)

and

**CHH Torrey Pines Hotel Partners, LP,**  
a Delaware partnership

and

**CHH Torrey Pines Tenant Corp.,**  
a Delaware corporation

(collectively, “Seller”)

Hilton La Jolla Torrey Pines, 10950 North Torrey Pines Road, La Jolla, CA 92037

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## **AGREEMENT OF PURCHASE AND SALE**

**THIS AGREEMENT OF PURCHASE AND SALE** (this "Agreement") is made as of the Effective Date, by and among JRK Torrey Pines Hotel Owner LLC, a Delaware limited liability company ("Purchaser"), and CHH Torrey Pines Hotel Partners, LP, a Delaware limited partnership ("Ground Lessee"), and CHH Torrey Pines Tenant Corp., a Delaware corporation ("Operating Lessee", and together with Ground Lessee, "Seller").

### **RECITATIONS:**

A. Ground Lessee is the owner of the leasehold estate in those certain parcels of real property more particularly described on Exhibit A attached hereto and made a part hereof, and the improvements situated thereon operated by Operating Lessee as the Hilton La Jolla Torrey Pines (the "Hotel"), situate, lying and being in San Diego, California.

B. Purchaser is desirous of purchasing the Property from Seller and Seller is desirous of selling the Property to Purchaser, for the purchase price and upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and undertakings of the parties hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, it is agreed:

### **ARTICLE I.** **DEFINITIONS**

1.1. Definitions. The following terms shall have the indicated meanings:

"ABC" shall mean the California Department of Alcoholic Beverage Control.

"Accrued Benefits" means, with respect to Hotel Employees, all retirement, health, welfare and any other employee benefits plans and employee contribution plans, accrued and earned but unused by such Hotel Employee as of the time in question, together with all employment taxes with respect thereto, including any withholding and employer contributions required under Applicable Laws; provided, however, "Accrued Benefits" shall not include Accrued PTO.

"Accrued PTO" means, with respect to Hotel Employees, the salary and wages which each Hotel Employee is entitled to receive for any personal time off (e.g., personal, sick or vacation days), earned and accrued but unused by such Hotel Employee as of the time in question, together with all employment taxes with respect thereto, including any withholding and employer contributions required under Applicable Laws.

"Advance Bookings" shall mean reservations and agreements made or entered into by Seller or Manager in the ordinary course of business prior to Closing for hotel rooms, banquet or meeting rooms or any other facilities at the Hotel which are to be utilized after Closing, or for catering services or other hotel services to be provided after Closing at or by the Hotel, together with all deposits held by or on behalf of Seller or Manager with respect thereto.

"Affiliate" of a Person shall mean (i) any other Person that is directly or indirectly (through one or more intermediaries) controlled by, under common control with, or controlling such Person, or (ii) any other Person in which such Person has a direct or indirect equity interest constituting at least a majority

interest of the total equity of such other Person. For purposes of this definition, "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person or the power to veto major policy decisions of any Person, whether through the ownership of voting securities, by contract or otherwise.

"Alcoholic Beverage Inventory" shall mean all open and unopened alcoholic beverages, whether in use or held in storage for use in connection with the operation of the Hotel.

"Applicable Laws" shall mean any applicable building, zoning, subdivision, environmental, health, safety or other governmental laws, statutes, ordinances, resolutions, rules, codes, regulations, orders or determinations of any Governmental Authority affecting the Property or the ownership, operation, use, maintenance or condition thereof.

"Approval Standard" shall have the meaning ascribed to such term in Section 6.1 hereof.

"Assigned Accounts Receivable" shall have the meaning ascribed to such term in Section 8.7.

"Assignment and Assumption Agreement" shall mean an assignment and assumption agreement in substantially the form attached hereto as Exhibit E whereby Seller assigns and Purchaser assumes all of Seller's right, title and interest in and to the Operating Agreements and the Leased Property Agreements that have not otherwise been terminated prior to Closing in accordance herewith, all in accordance with the terms and conditions thereof.

"Assignment and Assumption of Management Agreement" shall have the meaning ascribed to such term in Section 7.2 hereof.

"Assignment of Occupancy Agreements" shall mean an assignment agreement in substantially the form attached hereto as Exhibit F whereby Seller assigns and Purchaser assumes Seller's right, title and interest in and to the Occupancy Agreements pursuant to the terms and conditions thereof.

"Assumed Liabilities" shall have the meaning ascribed thereto in Section 2.5.

"Authorizations" shall mean all licenses, permits and approvals required by any governmental or quasi-governmental agency, body, department, commission, board, bureau, instrumentality or office, or otherwise appropriate with respect to the construction, ownership, operation, leasing, maintenance, or use of the Property or any part thereof.

"Bill of Sale" shall mean a bill of sale in substantially the form attached hereto as Exhibit D whereby Seller conveys its right, title and interest in and to the Personal Property (other than Leased Property) to Purchaser, together with any Warranties and Guarantees related thereto.

"Broker" shall mean Eastdil Secured.

"Closing" shall mean the consummation of the purchase and sale of the Property pursuant to this Agreement and shall be deemed to occur on the Closing Date.

"Closing Date" shall mean the date on which the Closing shall occur, which shall occur on the later of (i) July 1, 2024, or (ii) fifteen (15) days following Seller's receipt of the Ground Lessor Consent and Estoppel.

"Closing Documents" shall mean the documents defined as such in Section 7.1 hereof.

"Closing Obligations" shall have the meaning ascribed thereto in Section 9.1.

"Code" means the Internal Revenue Code of 1986, as amended.

"Compensation" means, with respect to any Hotel Employee, all wages, salaries, bonuses, workers' compensation, health insurance, benefits and other costs of employment of the Hotel Employees, together with all employment taxes with respect thereto, including any withholding and employer contributions required under Applicable Laws, including, without limitation, Accrued Benefits and Accrued PTO.

"Consumables" shall mean all food and non-alcoholic beverages, in opened or unopened cases whether in use or held in reserve storage for future use at the Property, but for the avoidance of doubt excluding any Alcoholic Beverage Inventory.

"Conveyed FF&E Reserve" shall mean that portion of the FF&E Reserve in an amount equal to Five Million and NO/100 Dollars (\$5,000,000.00). For the avoidance of doubt, any amount in the FF&E Reserve in excess of the Conveyed FF&E Reserve will not be sold or otherwise transferred to Purchaser but shall be released to Seller at Closing except to the extent such amount shall remain on deposit for the benefit of the Purchaser from and after Closing under the Management Agreement, in which case, Seller shall receive a credit for such amount pursuant to Section 7.10.

"Cut-Off Time" shall mean 11:59 p.m. Pacific Time on the day immediately preceding the Closing Date.

"Data Site" shall mean the data site located at the following link:

<https://esi.eastdilsecured.com/#/warrooms/warroomOverview?id=d5387a87-d3ff-4c6e-9665-bb93d6f34050>

"Deposit" shall have the meaning ascribed to such term in Section 2.3.

"Dispute" shall have the meaning ascribed to such term in Section 10.20.

"Earn-Out" shall have the meaning ascribed to such term in Section 2.6.

"Earn-Out Conditions" shall have the meaning ascribed to such term in Section 2.6.

"Earn-Out Date" shall have the meaning ascribed to such term in Section 2.6.

"Effective Date" (or other similar phrases such as "date of this Agreement" or "date hereof") shall have the definition ascribed to such term in Section 10.22 hereof.

"Employee Benefit Plans" means each "employee benefit plan" (as defined in ERISA Section 3(3), whether or not subject to ERISA) and each other plan, policy, program, arrangement or agreement providing compensation (excluding base salary or wages and overtime) or benefits of any kind to current or former Employees (i) that is maintained, sponsored, administered or contributed or required to be contributed to by Manager or its ERISA affiliates, or (ii) with respect to which Manager or its ERISA Affiliates has any current or contingent liability or obligation.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and all regulations, rules and guidance issued pursuant thereto.

"Escrow Agent" shall mean Kensington Vanguard National Title, 5949 Sherry Lane, Suite 111, Dallas, Texas 75225, Attn: Trey Lentz; Email: TLentz@kvnational.com; Phone: (214) 273-2514.

"FF&E Reserve" shall mean the furniture, fixtures, and equipment reserve currently held by the Manager pursuant to the Management Agreement.

"FIRPTA Certificate" shall mean the affidavit of Seller under Section 1445 of the Internal Revenue Code, as amended, in substantially the form attached hereto as Exhibit G.

"Excluded Assets" shall mean (i) the Excluded Documents, (ii) cash, cash equivalents, checks, money, house banks, other funds, notes, securities and other evidence of indebtedness held at the Hotel as of the Cut-Off Time (except for (A) till money, cash-on-hand, and sums in house banks for which Seller receives a credit pursuant to Section 7.6 and (B) the Conveyed FF&E Reserve), (iii) [reserved] (iv) the computer, telecommunication, and information technology software, hardware, systems, programs, processes, and procedures used in the operation of the Hotel and owned by Manager or its Affiliates, all of which shall be retained by the applicable owner, (v) all other personal property (tangible or intangible) owned by Manager (or any Affiliate thereof) which Manager (or such Affiliate) is entitled to retain upon termination of the Management Agreement or otherwise owned by any tenant or guest on the Real Property, all of which shall be retained by the owner thereof, as applicable.

"Excluded Documents" shall mean (i) internal memoranda, correspondence, analyses, documents and reports prepared by or for Seller or any Affiliate of Seller in connection with the ownership or operation of the Hotel, including, without limitation, tax returns or financial statements of Seller, (ii) communications between Seller and any of its Affiliates and their respective attorneys, (iii) Hotel Employee personnel files of Seller and/or Manager, (iv) appraisals, assessments or other valuations of any aspect of the Hotel or the condition thereof in the possession of Seller or its Affiliates, (v) confidential or proprietary information of Seller, and (vi) information which Seller is prevented from providing by reason of Applicable Law.

"Governmental Authority" shall mean any federal, state, county, municipal or other government or any governmental or quasi-governmental agency, department, commission, board, bureau, office or instrumentality, foreign or domestic, or any of them.

"Ground Lease" shall mean that certain Percentage Lease by and between Ground Lessor, as lessor, and Torrey Pines Hotel Associates, as lessee, dated August 10, 1987, which was filed on August 10, 1987 as Document No. RR-269077-1 with the Office of the City Clerk of San Diego, California, a memorandum of which, dated December 22, 1987 and recorded on January 10, 1989 as Document No. 89-013605 with the San Diego County Recorder's Office, as assigned pursuant to the Assignment and Assumption of Percentage Lease and Deed to Improvements by and between Torrey Pines Hotel Associates, as assignor, and Hilton Hotels Corporation, as assignee, dated and recorded on December 29, 1998 as Document No. 1998-0853813 with the San Diego County Recorder's Office, as amended by the First Amendment to Lease Agreement by and between Ground Lessor and Hilton Hotels Corporation, dated as of May 28, 2002 and filed on May 21, 2002 as Document No. RR-296517 with the Office of the City Clerk of San Diego, California, as further assigned pursuant to the Assignment and Assumption of Percentage Lease and Deed to Improvements by and between Hilton Hotels Corporation, as assignor, and Ground Lessee, as assignee, dated December 17, 2003 and recorded on December 18, 2003 as Document No. 2003-1487568 with the San Diego County Recorder's Office, and as further amended by the Second Amendment to Percentage Lease by and between Ground Lessor and Ground Lessee, dated June 9, 2017 and filed on May 23, 2017 as Document No. RR- 311148 with the Office of the City Clerk of San Diego,

California, and as further amended by the Third Amendment to Percentage Lease by and between Ground Lessor and Ground Lessee with an effective date of May 28, 2019.

"Ground Lease Assignment" shall mean an assignment and assumption of the Ground Lease in substantially the form attached hereto as Exhibit C whereby Ground Lessee assigns and Purchaser assumes all of Ground Lessee's right, title and interest in and to the Ground Lease pursuant to the terms and conditions thereof.

"Ground Lessor" shall mean The City of San Diego.

"Ground Lessor Consent and Estoppel" shall have the definition ascribed to such term in Section 6.6.

"Hotel" shall have the definition ascribed to such term in the Recitations.

"Hotel Employees" shall mean all employees of Manager or any Affiliate of Manager employed at the Property.

"Improvements" shall mean the Hotel and all other buildings, improvements, and other items of real estate located on the Land.

"Insurance Policies" shall mean all policies of insurance maintained by or on behalf of Seller pertaining to the Property, its operation, or any part thereof.

"Intangible Personal Property" shall mean, to the extent assignable, Seller's right, title and interest in and to all intangible personal property owned or possessed by Seller and used in connection with the ownership or operation of the Property, including, without limitation, (1) Authorizations (other than the Liquor License, which shall be transferred to Purchaser pursuant to Section 8.6 herein), (2) utility and development rights and privileges, general intangibles, business records, books and records relating to the Property or the operation of the Hotel (including, without limitation, all customer lists and guest data), plans and specifications, surveys, and engineering reports pertaining to the Real Property and the Personal Property, (3) any unpaid award for taking by condemnation or any damage to the Land by reason of a change of grade or location of or access to any street or highway, (4) the share of the Rooms Ledger determined under Section 7.6 hereof, (5) Advance Bookings, (6) telephone numbers for and websites for the Hotel and any trademarks, service marks, trade dress, logos, trade names, brand names and corporates names used exclusively in connection with the operation of the Hotel (and including all goodwill associated therewith), and (7) to the extent transferable, Warranties and Guaranties, excluding (a) Seller's cash on hand, in bank accounts and invested with financial or other institutions (except for the Conveyed FF&E Reserve), (b) accounts receivable except for the above described share of the Rooms Ledger and the Assigned Accounts Receivable, and (c) the Excluded Assets.

"Inventory" shall mean all Consumables, china, glassware, silverware, kitchen and bar small goods, guest supplies, operating supplies, printing, stationary and uniforms, whether in use or held in reserve storage for future use in connection with the operation of a hotel and all in-use or reserve stock of linens, towels, paper goods, soaps, cleaning supplies and the like with respect to the Hotel.

"Land" shall mean Ground Lessee's leasehold estate created by the Ground Lease in those certain parcels of real estate lying and being in San Diego County, California, and more particularly described on Exhibit A hereof, together with all of Seller's rights, titles, benefits, easements, privileges, remainders, tenements, hereditaments, interests, reversions and appurtenances thereunto belonging or in any way appertaining, and all of the estate, right, title, interest, claim or demand whatsoever of Seller therein, in

and to adjacent strips and gores, if any, between the Land and abutting properties, and in and to adjacent streets, highways, roads, alleys or rights-of-way, and the beds thereof (except to the extent, if any, that such strips or gores or such streets, highways, roads, alleys or rights-of-way abut or provide access to or benefit other properties owned by Seller), either at law or in equity, in possession or expectancy, now or hereafter acquired.

“Leased Property” shall mean all leased items of Tangible Personal Property, including, items subject to any capital lease, operating lease, financing lease, or any similar agreement.

“Leased Property Agreements” shall mean the lease agreements pertaining to the Leased Property.

“Liabilities” means, collectively, any and all liabilities, demands, liens, interest, claims, actions or causes of action, assessments, losses, fines, penalties, actual costs (including, without limitation, response and/or remedial costs), and actual damages and expenses including, without limitation, those asserted by any Governmental Authority or any third party, and any and all reasonable attorneys’, consultants’ and expert witness fees and expenses.

“Management Agreement” shall mean that certain Management Agreement for the management or operation of the Hotel by and between Operating Lessee and Manager dated December 17, 2003, as amended by that certain Amendment to Management Agreement dated July 18, 2016.

“Manager” shall mean Hilton Management LLC.

“Material Agreement” means any Operating Agreement which (a) provides for aggregate expenditures thereunder which exceed Seventy-Five Thousand Dollars (\$75,000), (b) has a term in excess of one year and is not otherwise terminable upon written notice by Seller, or (c) requires the approval of Seller pursuant the terms of the Management Agreement.

“Material Taking” shall have the meaning ascribed to such term in Section 8.2.

“Monetary Encumbrance Release” shall have the meaning ascribed to such term in Section 2.4(f) hereof.

“Monetary Title Encumbrances” shall mean any title encumbrances affecting the Hotel which are comprised of (i) delinquent taxes, (ii) mortgages, deeds of trust, security agreements, or other similar liens or charges in a fixed sum (or capable of computation as a fixed sum) securing indebtedness or obligations and encumber the Property or any portion thereof (including, without limitation, any prepayment charges or premiums, defeasance costs, yield maintenances and any and all other charges due and owing or assessed to Seller by any applicable lenders), (iii) mechanics’ or materialmen’s liens for any work done by or on behalf of Seller or Manager, (iv) any judgement liens, or (v) any liens, exceptions to title, or other encumbrances encumbering the Property that are not Permitted Title Exceptions and arose due to the acts or omissions of Seller (or otherwise voluntarily created by Seller) after the Effective Date in violation of this Agreement.

“New Objection” shall have the meaning ascribed to such term in Section 2.4(e).

“Non-Breach Inaccuracy” shall mean a breach or inaccuracy of a representation or warranty contained in Article III of this Agreement of which Seller gives Purchaser written notice prior to Closing or Purchaser otherwise obtains actual knowledge prior to Closing which does not constitute a breach or inaccuracy of any such representation or warranty made as of the Effective Date but would constitute a

breach or inaccuracy of such representation or warranty if made as of the Closing Date (such as, for example, because Seller did not have knowledge, as such term is defined in Article III, of such matters as of the Effective Date).

“Occupancy Agreements” shall mean all leases, concession or occupancy agreements in effect with respect to the Real Property and/or Hotel under which any tenants (other than Hotel guests and Operating Lessee) or concessionaires occupy space upon the Real Property.

“Operating Agreements” shall mean all service, supply, maintenance, construction, capital improvement and other similar contracts in effect with respect to the Property (other than the Occupancy Agreements, Leased Property Agreements, Management Agreement, and the Owner Agreement) related to construction, operation, or maintenance of the Property.

“Operating Lease” shall mean that certain lease agreement between Ground Lessee and Operating Lessee with respect to the Property.

“Owner’s Affidavit” that certain Title Affidavit to be delivered by Seller to the Title Company in connection with the issuance of the Owner’s Title Policy in the form attached hereto as Exhibit I.

“Owner’s Title Policy” shall mean an ALTA extended coverage owner’s policy of title insurance issued to Purchaser by the Title Company, pursuant to which the Title Company insures Purchaser’s ownership of a leasehold estate in the Real Property described on Exhibit A, subject only to Permitted Title Exceptions. Such ALTA extended coverage owner’s policy of title insurance shall insure Purchaser in the amount of the Purchase Price and shall be in the form customarily used for like transactions in the state where the Land is located.

“Owner Agreement” shall mean that certain Owner Agreement for the management or operation of the Hotel by and among Ground Lessee, Operating Lessee, and Manager dated as of February \_\_, 2013.

“PAGA Employee Claims” shall mean the Notice of Labor Code Violations on behalf of Morresia Byfield (the ‘Claimant’) dated April 17, 2024 (together with any amendments or modifications thereto from time to time, the “PAGA Letter”) and together with, as applicable, any claims (i) asserted by Claimant, (ii) asserted by or in such PAGA Letter, or (iii) arising from or based on the facts and claims asserted in the PAGA Letter, in each case, whether such claims are brought by the Claimant or any other past or current employee of the Property (including any Hotel Employees).

“Parra Chavez Litigation” shall mean the litigation filed in Orange County Superior Court, Case No. 30-2022-01248249, brought by Juan Manuel Parra Chavez against Hilton Resorts Corporation, Hilton Reservations Worldwide, LLC, Hilton Hotel Employer LLC, and Hilton Management LLC, and Does 1-50.

“Permitted Title Exceptions” shall mean those exceptions to title to the Real Property that are satisfactory or deemed satisfactory to Purchaser as determined pursuant to Section 2.4(e) hereof. Notwithstanding anything to the contrary contained herein, the Ground Lease Assignment to be filed in connection with Closing (and in the form attached hereto as Exhibit C) shall be deemed a Permitted Title Exception.

“Person” shall mean an individual, a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a Governmental Authority.

“Personal Property” shall mean collectively the Tangible Personal Property and the Intangible Personal Property, but in all respects excluding the Excluded Assets.

“Property” shall mean collectively the Real Property and Personal Property, but in all respects excluding the Excluded Assets.

“Property Agreements” shall have the meaning ascribed to such term in Section 3.23 hereof.

“Purchase Price” shall mean One Hundred Sixty-Five Million and No/100 Dollars (\$165,000,000.00), payable in the manner described in Section 2.2 hereof and which shall be subject to adjustment as set forth herein.

“Purchaser Parties” shall have the meaning ascribed to such term in Section 2.4(a) hereof.

“Real Property” shall mean the Land and the Improvements.

“Reimbursement Cap” shall have the meaning ascribed to such term in Section 9.1(b).

“Representation Liability Cap” shall have the meaning ascribed to such term in Section 10.12.

“Retained Accounts Receivable” shall have the meaning ascribed thereto in Section 8.7.

“Retained Liabilities” shall have the meaning ascribed thereto in Section 2.5.

“Rooms Ledger” shall mean the final night’s room revenue for the Hotel (revenue from rooms occupied as of 6:00 a.m. on the Closing Date, exclusive of food, beverage, telephone and similar charges charged or incurred as of such time which shall be shared equally by Purchaser and Seller), including any sales taxes, room taxes or other taxes thereon.

“Seller’s Accounts Receivable” shall mean all guest room, food, beverage and other charges (including, without limitation, telephone and other items charged to transient guests, parking charges, revenues arising from telephone booths, coin-operated laundry equipment, vending machines and games, check rooms, and any and all other charges and revenues relating to goods and services provided by Seller or Manager in connection with the Property) owing to Seller for services rendered and any payments due or payable or credits receivable with respect to the operation of the Property for any period prior to the Closing Date and which remain unpaid as of the Closing Date, but expressly excluding items of income otherwise prorated pursuant to the terms of this Agreement (including the Rooms Ledger).

“Seller’s Response” shall have the meaning ascribed thereto in Section 2.4(e).

“Seller’s Response Period” shall have the meaning ascribed thereto in Section 2.4(e).

“Submission Materials” shall have the meaning ascribed thereto in Section 2.4(b)

“Tangible Personal Property” shall mean the items of tangible personal property including, but not limited to, all furniture, fixtures, equipment, machinery, telephone systems, computer hardware and software (to the extent assignable), security systems, Inventory and other tangible personal property of every kind and nature (which does not include cash-on-hand and petty cash funds) located at the Hotel

and owned or leased by Seller, including, without limitation, Seller's interest as lessee with respect to any such leased Tangible Personal Property.

"Taxes" means any federal, state, local or foreign, real property, personal property, sales, use, room, occupancy, ad valorem or similar taxes, assessments, levies, charges or fees imposed by any Governmental Authority on Seller with respect to the Property or the Hotel, but expressly excluding any (a) interest, penalty or fine with respect thereto; (b) federal, state, local or foreign income, capital gain, gross receipts, capital stock, franchise, profits, estate, gift or generation skipping tax; or (c) transfer, documentary stamp, recording or similar tax, levy, charge or fee incurred with respect to the transactions described in this Agreement.

"Title Commitment" shall mean the title commitment and exception documents defined as such in Section 2.4(e) hereof.

"Title Company" shall mean Kensington Vanguard National Title or other title insurance underwriter selected by Seller and reasonably acceptable to Purchaser.

"Title Review Period" shall have the meaning ascribed to such term in Section 2.4(e).

"Updated Survey" shall have the meaning ascribed to such term in Section 2.4(d).

"Vouchers" shall mean all outstanding unexpired vouchers, gift certificates and other promotional materials which may be used exclusively at the Property (and no other hotel resorts or golf clubs) as full or partial payment for any goods or services at the Property, including, without limitation, room rentals, food and beverage service, greens fees or any other item and which are not fully reimbursable by the Property Manager. For avoidance of doubt, Vouchers shall exclude (i) any vouchers, gift certificates and other promotional materials issued by third parties leasing space at the Property and which are and will remain the sole responsibility of such third parties to reimburse or redeem, as applicable, and (ii) brand-wide reward programs in which the Property is required to participate through Manager or its Affiliates and pursuant to the Management Agreement.

"WARN Act" shall mean the Worker Adjustment and Retraining Notification Act.

"Warranties and Guarantees" shall mean any subsisting and assignable warranties and guarantees relating to the Improvements or the Tangible Personal Property or any part thereof.

**ARTICLE II.**  
**PURCHASE AND SALE; DEPOSIT; PAYMENT OF**  
**PURCHASE PRICE**

2.1. Purchase and Sale. Seller agrees to sell and Purchaser agrees to purchase the Property for the Purchase Price and in accordance with and subject to the other terms and conditions set forth herein.

2.2. Payment of Purchase Price. The Purchase Price shall be paid to Seller in the following manner:

(a) Purchaser shall receive a credit against the Purchase Price in an amount equal to the amount of the Deposit.

(b) Purchaser shall deposit the balance of the Purchase Price, as adjusted in the manner specified in Article VII and as set forth in this Agreement, with Escrow Agent at Closing

by making a wire transfer of immediately available federal funds. Such wire transfer shall be sent by Purchaser to the Escrow Agent for the account of Seller no later than 2:00 PM, Dallas, Texas time on the Closing Date.

2.3. Deposit. Within one (1) Business Day of the Effective Date, Purchaser shall deliver to Escrow Agent (i) a wire transfer or check in the sum of One Hundred Dollars (\$100.00) payable to the order of Seller representing the independent consideration for Seller's execution of this Agreement (which check or the proceeds of which wire transfer shall thereafter be delivered by Escrow Agent to Seller and shall not be a part of the Deposit) and (ii) a wire transfer or cashier's or certified check in the sum of Six Million and No/100 Dollars (\$6,000,000.00) (such amount, plus all interest or other earnings that may accrue thereon, the "Deposit"), which shall be non-refundable to Purchaser except as otherwise expressly provided herein. If Purchaser fails to timely deposit the Deposit with Escrow Agent, Seller shall be entitled, as Seller's sole and exclusive remedy, to terminate this Agreement by written notice to Purchaser at any time before the Deposit is delivered to Escrow Agent, in which event neither party shall have any obligations hereunder, except those which expressly survive a termination of this Agreement. The Deposit shall be invested by Escrow Agent in a commercial bank or banks acceptable to Purchaser at money market rates, or in such other investments as shall be approved in writing by Purchaser. The Deposit shall be held and disbursed by Escrow Agent in strict accordance with the terms and provisions of this Agreement. The Deposit shall be either (a) applied at the Closing against the Purchase Price, (b) returned to Purchaser pursuant hereto, or (c) paid to Seller pursuant hereto.

2.4. Due Diligence.

(a) Purchaser and its agents, contractors, auditors, engineers, attorneys, employees, consultants, other representatives and potential lessees, partners, and lenders (collectively, "Purchaser Parties") shall have the right through Closing to enter upon the Real Property upon not less than one (1) business day's prior notice to Seller, and to perform, at Purchaser's expense, such economic, surveying, engineering, topographic, environmental, marketing and other tests, studies and investigations as Purchaser may deem appropriate, in its sole and absolute discretion. Purchaser Parties shall have no discussions, correspondence, or other contact with any Hotel Employees unless coordinated in advance with Seller.

(b) Purchaser acknowledges its receipt of the due diligence materials set forth on the Data Site as of the Effective Date. Seller shall, promptly upon request by Purchaser, make available to Purchaser on the Data Site, such additional materials which are in Seller's possession or control relating to the Property and the operation thereof which are reasonably requested by Purchaser from time to time. All documents and materials provided by Seller to Purchaser as of the Effective Date and, thereafter, pursuant to this Agreement and which such documents and materials are set forth on the Data Site, are referred to collectively herein as the "Submission Materials". Except as expressly set forth in Article III, Purchaser acknowledges and agrees that the Submission Materials are provided without warranty or representation whatsoever.

(c) If, for any reason whatsoever (other than by reason of Seller's default) Purchaser does not purchase the Property, upon written request by Seller, Purchaser shall (i) at Purchaser's option, either deliver to Seller or destroy, all copies of all the Submission Materials and any other materials delivered by or on behalf of Seller to Purchaser or Purchaser Parties, together with any copies or reproductions of such documents or materials, or any summaries, abstracts (provided that Buyer shall have the right to retain any Submission Materials and any other materials delivered by or on behalf of Seller to Buyer as may be required pursuant to Buyer's internal compliance or document retention policies or to the extent the same is created pursuant to

Buyer's automatic archival or back-up procedures, provided that such materials shall remain subject to the confidentiality requirements contained herein until such materials are deleted or destroyed), and (ii) deliver to Seller all third-party reports prepared by or for Purchaser or Purchaser Parties with respect to the Property; provided, however, (A) Purchaser shall not be obligated to deliver to Seller any materials of a proprietary or confidential nature (such as, for the purposes of example only, any financial forecasts or market repositioning plans) prepared for Purchaser or Purchaser Parties in connection with the Property, (B) Seller acknowledges that any such materials delivered to Seller pursuant to the provisions of clause (ii) shall be without warranty or representation whatsoever, and (C) Purchaser shall not be required to return or destroy electronic copies or emailed copies which shall be retained by Purchaser in accordance with Purchaser's corporate document retention policies and maintained in a confidential manner in accordance with the confidentiality obligations under this Agreement. The provisions of this Section 2.4(c) shall survive the termination of this Agreement.

(d) Purchaser shall indemnify, hold harmless and defend Seller, Manager, and each of their subsidiaries, affiliate and parent companies and their respective (i) officers, directors, partners, members, shareholders, employees and agents and, (ii) successors and permitted assigns (collectively, the "Seller Indemnitees"), from and against any and all Liabilities, to the extent caused by the inspections and due diligence undertaken at the Property by Purchaser or Purchaser Parties, **INCLUDING ANY SUCH LOSS, DAMAGE OR CLAIM TO WHICH THE NEGLIGENCE OF SELLER AND/OR MANAGER MAY HAVE CONTRIBUTED**, but excluding any such Liabilities, if and to the extent (x) caused or exacerbated by the gross negligence or reckless or willful misconduct of Seller and/or Manager or their respective agents, contractors, auditors, engineers, attorneys, employees, consultants and other representatives or (y) caused by the mere discovery of a preexisting condition. Purchaser and Seller understand and agree that any on-site inspections of the Property shall occur at reasonable times agreed upon by Seller and Purchaser after not less than one (1) business day prior written notice to Seller and shall be conducted so as not to interfere unreasonably with the operation of the Property and the use of the Property by the tenants and the guests of the Hotel. Seller and Manager shall have the right to have a representative present during any such inspections. Purchaser shall not engage in any invasive testing (including without limitation air sampling, subsurface or groundwater tests, or any other environmental samplings) at the Hotel without the prior written consent of Seller thereto, which consent may be withheld or denied for any or no reason whatsoever; provided, however, Seller agrees that Purchaser may conduct or cause to be conducted (i) a standard ASTM Phase I environmental report, (ii) an ALTA survey (the "Updated Survey"), and (iii) standard non-invasive structural, physical condition, engineering and roof reports, but all of the foregoing only in accordance with this Agreement and other terms and conditions as may be reasonably required by Seller. Purchaser shall not permit any liens to attach to the Property by reason of such inspections. Solely to the extent damage to the Property is caused by Purchaser or Purchaser Parties, Purchaser shall (i) restore the Property, at its own expense, to substantially the same condition which existed prior to such damage, ordinary wear and tear excepted; and (ii) be responsible for and pay any and all liens by contractors, subcontractors, materialmen, or laborers performing the inspections or any other work on behalf of Purchaser or Purchaser Parties on or related to the Property. Should any such lien or claim be recorded, Purchaser will promptly obtain its full release (or bond over same) as to Seller and the Property. Purchaser shall maintain (or cause to be maintained), for the benefit of Purchaser, Seller, Seller's Affiliates and managers insurance, on an occurrence basis in the amount of \$1,000,000 combined single limit/\$2,000,000 general aggregate for commercial general liability, workers compensation in accordance with statutory requirements, and umbrella insurance in the amount of \$2,000,000. Such policy shall

name Seller, Seller's manager, and each of their subsidiaries, affiliate and parent companies, the respective successors and assigns of each of them, and the officers, directors, partners, members, shareholders, employees and agents of each of the foregoing, as additional insured parties, which insurance shall provide coverage against any claim for personal liability or property damage caused by Purchaser or Purchaser Parties in connection with such inspections. All policies that Purchaser is required to obtain under this Agreement shall be issued by insurance companies authorized to do business in the State of California with a Financial Strength Rating of not less than "A" and a Financial Size Category of not less than Class "X", as rated by the most current available "Best's" Insurance Reports. Purchaser shall deliver to Seller a certificate evidencing the commercial general liability and property damage insurance before conducting any inspections on the Property. The provisions of this Section 2.4(d) shall survive any termination of this Agreement and a closing of the transaction contemplated hereby.

(e) On or prior to the Effective Date, Seller has delivered to Purchaser, a title insurance commitment issued by the Title Company covering the Real Property, binding the Title Company to issue the Owner's Title Policy together with legible copies (to the extent such legible copies are available) of all documents identified in such title insurance commitment as exceptions to title (collectively, the "Title Commitment"), with respect to the state of title to the Property. If Purchaser receives any revisions to the Title Commitment or the Updated Survey ordered by Purchaser that include items which did not appear in the prior versions of the Title Commitment or Updated Survey, as applicable, and which were not requested or caused by or on behalf of Purchaser, then Purchaser shall have five (5) business days following its receipt of any such revision to object to any new matters first appearing or otherwise shown thereon in a notice of objection to be delivered to Seller (each, a "New Objection") (it being understood and agreed that the Closing Date shall not be adjourned in order to permit Purchaser to avail itself of the entire five (5) business day period). Other than with respect to Monetary Title Encumbrances (which will be covered by a Monetary Encumbrance Release at Closing) as otherwise specifically required in this Agreement, Seller shall not be obligated to incur any expenses or incur any liability to cure any New Objections. Seller shall notify Purchaser within three (3) business days after receipt of notice of New Objections ("Seller's Response Period") whether Seller, in its sole discretion, agrees to attempt to cure any of such New Objections ("Seller's Response"). If Seller agrees in Seller's Response to attempt to cure any of such New Objections, Seller shall use good faith efforts (without the obligation to expend any money or incur any liability except with regards to the release of Monetary Title Encumbrances (which will be covered by a Monetary Encumbrance Release at Closing) to cure such New Objections which Seller has agreed to cure on or before the Closing Date to the reasonable satisfaction of Purchaser. If Seller is unable to cure such New Objections on the Closing Date (excluding, for avoidance of doubt, any Monetary Title Encumbrances (which will be covered by a Monetary Encumbrance Release at Closing) the failure of which shall constitute a Seller default pursuant to Section 9.1 hereof), Purchaser may elect (1) to waive such New Objections without any abatement in the Purchase Price, or (2) to terminate this Agreement in which case the Deposit shall be promptly returned to Purchaser and the parties hereto shall be released from all further obligations hereunder, except those which expressly survive a termination of this Agreement. If Seller does not provide Seller's Response to Purchaser within Seller's Response Period, Seller shall be deemed to have elected not to attempt to cure New Objections. If Seller elects in Seller's Response not to attempt to cure all or any number of New Objections or if Seller is deemed to have elected not to attempt to cure New Objections pursuant to the preceding sentence, then within five (5) days after the expiration of Seller's Response Period (it being understood and agreed that the Closing Date shall not be adjourned in order to permit Purchaser to avail itself of the entire five (5) day period, as

applicable), Purchaser may elect (1) to waive any New Objections which Seller has elected or is deemed to have elected not to attempt to cure without any abatement in the Purchase Price, or (2) to terminate this Agreement in which case the Deposit shall be promptly returned to Purchaser and the parties hereto shall be released from all further obligations hereunder, except those which expressly survive a termination of this Agreement. In the event Purchaser does not provide to Seller notice of Purchaser's election under the preceding sentence within such five (5) day period, Purchaser shall be deemed to have elected clause (1) of the preceding sentence. All title matters revealed by the Title Commitment and Updated Survey which (i) are not objected to by Purchaser as provided above (other than Monetary Title Encumbrances which will be covered by a Monetary Encumbrance Release at Closing), (ii) are waived or deemed waived by Purchaser as provided above, or (iii) were caused by or on behalf of Purchaser.

(f) Notwithstanding any provision in this Agreement to the contrary and for avoidance of doubt, Seller shall, at or prior to Closing, be obligated to either (i) pay and discharge, (ii) bond against in a manner legally sufficient to cause to be released, or (iii) indemnify or escrow money with or otherwise cause the Title Company to insure over, all Monetary Title Encumbrances (individually and collectively, a "Monetary Encumbrance Release"). Any failure of Seller to effectuate a Monetary Encumbrance Release of any Monetary Title Encumbrances at or prior to Closing shall constitute a default by Seller under Section 9.1 and Purchaser shall have the right to exercise all rights and remedies afforded to it on account thereof in accordance with this Agreement.

(g) Except as otherwise provided herein, Seller shall not, after the date of this Agreement, voluntarily subject the Real Property to any liens, encumbrances, covenants, conditions, restrictions, easements or other title matters or seek any zoning changes without Purchaser's prior written consent, which consent may be given or withheld in Purchaser's sole discretion; provided, however, the foregoing shall not restrict Seller's actions relating to obtaining the Ground Lessor Consent and Estoppel or the Ground Lease Assignment as contemplated pursuant to this Agreement. Any title matter recorded against the Property in violation of this Section 2.4(g) shall be deemed to be a Monetary Title Encumbrance for all purposes hereunder.

(h) As of the Effective Date, Purchaser has received confirmation that Manager has approved Purchaser as a transferee of Operating Lessee under the Management Agreement (the "Manager Approval").

2.5. Retained Liabilities and Assumed Liabilities. At and following Closing, Seller shall retain all Liabilities for, with respect to and/or arising in connection with or under (i) the payment of any amounts due and payable or accrued but not yet due or payable prior to the Closing Date under the Property Agreements, the Ground Lease and/or the Management Agreement, except if and only to the extent Purchaser has received a credit for such Liabilities under Article VII, (ii) the payment of all Taxes due and payable or accrued but not yet due or payable prior to the Closing Date, except if and only to the extent Purchaser has received a credit for such Taxes under Article VII, (iii) related to or arising in respect of any Hotel Employees to the extent arising or accruing prior to the Closing Date, including the payment of any Compensation due to such Hotel Employees, except if and only to the extent Purchaser has received a credit for any such Compensation under Article VII, (iv) any claim for personal injury to or property damage suffered by a Person (other than any Purchaser Parties) which accrued or arose prior to the Closing Date (including, without limitation, those matters disclosed in Schedule 3.13 attached hereto), except as otherwise expressly addressed in Section 2.4(d), and (v) any other Liabilities solely accruing with respect to the operation of the Hotel prior to the Closing Date that is not otherwise covered under clauses (i) through (iv) above, except if and to the extent Purchaser has received a credit for such

Liabilities under Article VII (collectively, the “Retained Liabilities”). Subject to the limitations set forth in Section 3.23 (except as otherwise expressly provided herein), Seller shall indemnify, and hold Purchaser, and its Affiliates harmless from and against any and all (x) Retained Liabilities, (y) the Parra Chavez Litigation, but only to the extent such Liability is in excess of amounts reserved by Manager as of the Effective Date, and (z) Liabilities related to the PAGA Employee Claims which arise, accrue or relate to the period prior to the Closing, including, without limitation, in the event additional employees or individuals are included in the PAGA Employee Claims and/or such PAGA Employee Claims become a representative, collective action or class action lawsuit, as applicable, for Liabilities which arise, accrue or relate to the period prior to the Closing. For avoidance of doubt and notwithstanding anything to the contrary contained herein, neither the Retained Liabilities nor Liabilities related to or incurred in connection with the PAGA Employee Claim shall be subject to the Representation Liability Cap, Liability Floor or the Limitation Date. Furthermore, from and following Closing, Purchaser shall assume all Liabilities for, with respect to and/or arising in connection with or under (i) the payment of any amounts that become due and payable or accrue on or after the Closing Date under the Property Agreements, the Ground Lease and/or the Management Agreement, except if and only to the extent Seller received a credit for such Liabilities under Article VII, (ii) the payment of all Taxes due and payable or accrues on or after the Closing Date, except if and only to the extent Seller received a credit for such Taxes under Article VII, (iii) related to or arising in respect of any Hotel Employees to the extent arising or accruing on or after the Closing Date, including the payment of any Compensation due to such Hotel Employees on or after the Closing Date, except if and only to the extent Seller received a credit for any such Compensation under Article VII, and (iv) any claim for personal injury to or property damage suffered by a Person (other than Seller) which accrues or arises on or after the Closing Date, and (v) any other Liabilities solely if and to the extent the same accrue or arise with respect to the operation of the Hotel on or after the Closing Date that are not otherwise covered under clauses (i) through (iv) above, except if and to the extent Seller received a credit for such Liabilities under Article VII (collectively, the “Assumed Liabilities”). Purchaser shall indemnify, and hold Seller, and its Affiliates harmless from and against any and all Assumed Liabilities. This Section 2.5 shall survive the Closing.

2.6. Earn-Out. Within five (5) business days following the completion and receipt by Purchaser of the year-end financials for the 2024 calendar year, but in no event later than February 15, 2025 (the “Earn-Out Date”), Purchaser shall pay to Seller an amount equal to Three Million Dollars (\$3,000,000) (the “Earn-Out Payment”) if, and only if, both of the following conditions have been satisfied: (a) the total gross revenue of the Hotel for the 2024 calendar year shall equal or exceed an amount equal to Fifty Three Million Five Hundred Sixty Thousand and No/100 Dollars (\$53,560,000.00), and (b) the total gross operating profit of the Hotel for the 2024 calendar year (“Gross Operating Profit”) shall equal or exceed an amount equal to Twenty Seven Million Five Hundred Twenty Seven Thousand and No/100 Dollars (\$27,527,000.00), with the satisfaction of the thresholds set forth in subclauses (a) and (b) to be determined as set forth in the annual financial statements prepared by Manager for the 2024 calendar year pursuant to the terms and conditions of the Management Agreement (collectively, the “Earn-Out Conditions”). For avoidance of doubt, if the Earn-Out Conditions are not satisfied, Purchaser shall have no obligation to pay the Earn-Out Payment (or any portion thereof) to Seller and Seller shall have no claim and waives and all rights with respect thereto. Seller acknowledges and agrees that the Property is managed by the Manager pursuant to the Management Agreement and pursuant to an annual plan and operating budget approved by Seller and prior to the Closing Date. Notwithstanding the foregoing, Purchaser agrees that it shall not act or fail to act in any manner that is intended to reduce the Gross Operating Profit of the Hotel in a manner intended to reduce or otherwise circumvent Purchaser’s obligations in respect of the Earn-Out Payment which may be due and owing pursuant to this Section 2.6. The parties acknowledge and agree that the payment of any Earn-Out Payment shall be based on the gross revenues of the Hotel and Gross Operating Profit set forth in the financial statements prepared by

Manager pursuant to the terms of the Management Agreement, which Purchaser shall deliver to Seller within a reasonable timeframe following receipt of same from Manager. This Section 2.6 shall survive Closing.

**ARTICLE III.**  
**SELLER'S REPRESENTATIONS AND WARRANTIES**

To induce Purchaser to enter into this Agreement and to purchase the Property, and to pay the Purchase Price therefor, Seller hereby makes the following representations and warranties:

3.1. Organization and Power. Each Seller is duly organized, validly existing and in good standing under the laws of Delaware and qualified to do business in California and has all requisite power and authority to enter into and perform its obligations hereunder and under any document or instrument required to be executed and delivered on behalf of Seller hereunder.

3.2. Authorization and Execution. This Agreement has been duly authorized by all necessary action on the part of Seller, has been duly executed and delivered by Seller, constitutes the valid and binding agreement of Seller and is enforceable in accordance with its terms. The person executing this Agreement on behalf of Seller has the authority to do so.

3.3. Non-contravention. Subject to any consent to the assignment of the Ground Lease and any particular Operating Agreement, Management Agreement, Owner Agreement, Occupancy Agreement or Leased Property Agreement required by the terms thereof or by applicable law and to the payment in full at the Closing of any Monetary Title Encumbrances, the execution and delivery of, and the performance by Seller of its obligations under, this Agreement does not and will not contravene, or constitute a default under, any provision of applicable law or regulation, Seller's organizational documents or any agreement, judgment, injunction, order, decree or other instrument binding upon Seller or to which the Property is subject, or result in the creation of any lien or other encumbrance on any asset of Seller.

3.4. Compliance with Existing Laws. Seller has not and, to Seller's knowledge, Manager has not, received from any Governmental Authority written notice within the past year of any violation of any provision of Applicable Laws, including, but not limited to, those of environmental agencies, with respect to the ownership, operation, use, maintenance or condition of the Property which violation has not been remedied.

3.5. Management Agreement. Seller has delivered to Purchaser a true, correct and complete copy of the Management Agreement and the Management Agreement is in full force and effect and has not been amended or modified except as set forth in the definition thereof. Seller has not received or delivered any default notices under the Management Agreement that have not been cured or rescinded.

3.6. Condemnation Proceedings; Roadways. Seller has received, and, to Seller's knowledge, Manager has received, no written notice of any condemnation or eminent domain proceeding pending against the Property or any part thereof.

3.7. Actions or Proceedings. Seller has received, and, to Seller's knowledge, Manager has received, no written notice of any suit or proceeding in any court, before any arbitrator, or before or by any Governmental Authority which (a) in any manner raises any question affecting the validity or enforceability of this Agreement or any other agreement or instrument to which Seller is a party or by which it is bound and that is or is to be used in connection with, or is contemplated by, this Agreement, (b) would materially and adversely affect the business, results of operations or operation of the Property

as presently conducted, or (c) would create a lien on the Property, any part thereof or any interest therein which will not be discharged by Seller at Closing.

3.8. Occupancy Agreements. Except as disclosed in Schedule 3.8, there are no Occupancy Agreements in effect with respect to the Real Property or to which the Real Property is subject. Seller has delivered or made available to Purchaser prior to the date of this Agreement true, complete and correct, in all material respects, copies of all Occupancy Agreements. Except as disclosed in Schedule 3.8, (a) each Occupancy Agreement is in full force and effect; (b) no Seller has received or delivered any written notice of an uncured default under the Occupancy Agreements and, to Seller's knowledge, neither Sellers nor any other party to an Occupancy Agreement is in material default of its obligations thereunder; and (c) to Seller's knowledge, no rent has been paid by any tenant under a Occupancy Agreement more than one month in advance and no Occupancy Agreement security deposits have been applied to perform such tenant's obligations (which have not been fully replenished).

3.9. Seller Is Not a "Foreign Person". Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code, as amended (i.e., Seller is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person as those terms are defined in the Internal Revenue Code and regulations promulgated thereunder).

3.10. Bankruptcy. Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors that remains pending, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets that remains pending, (iv) suffered the attachment or other judicial seizure of all, or substantially all of Seller's assets that remains pending, (v) admitted in writing its inability to pay its debts as they come due or (vi) made an offer of settlement, extension or composition to its creditors generally.

3.11. Terrorism. None of Seller or their Affiliates is in violation of any laws relating to terrorism, money laundering or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Action of 2001, Public Law 107-56 and Executive Order No. 13224 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) (the "Executive Order") (collectively, the "Anti-Money Laundering and Anti-Terrorism Laws"). For purposes of this Section 3.11, any interest in Seller or its Affiliates held via public shares is not included in this representation.

(1) None of Seller or their Affiliates, is acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics traffickers, including those persons or entities that appear on the Annex to the Executive Order, or are included on any relevant lists maintained by the Office of Foreign Assets Control of U.S. Department of Treasury, U.S. Department of State, or other U.S. government agencies, all as may be amended from time to time.

(2) None of Seller or their Affiliates (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any person included in the lists set forth in the preceding paragraph; (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order; or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Money Laundering and Anti-Terrorism Laws.

3.12. Title to Personal Property. Each Seller, as applicable, has good and valid title to all Personal Property owned by such Seller, which shall be free and clear of all liens and encumbrances as of the Closing except for the Leased Property (which shall be subject only to the ownership interest of the lessor thereunder).

3.13. Litigation. Except as set forth on Schedule 3.13 attached hereto, there are no litigations, actions, suits, arbitrations, employment-related claims, unfair labor practice charges, workers compensation claims, orders, injunctions, claims of liability, government investigations, or proceedings pending or, to Seller's knowledge, threatened or asserted in writing against Seller or, to Seller's knowledge, with respect to the Property, which (i) if determined adversely to a Seller would result in a material adverse effect on the ownership or operation of the Property, or (ii) would materially and adversely affect the ability of such Seller to perform its obligations hereunder.

3.14. Employees. Neither Seller has any employees. To Seller's knowledge, all Hotel Employees are employees of the Manager or its Affiliates. Neither Seller nor Manager is a party to any collective bargaining agreement or other agreement with any union with respect to any Hotel Employees. To Seller's knowledge, there is no pending or threatened strike, work stoppage, picketing, or lockout involving the Property.

3.15. Taxes. Except as set forth on Schedule 3.15, (a) Seller has not received written notice of an audit of any Taxes which has not been resolved or completed; (b) Seller is not currently contesting any Taxes; and (c) there is no currently pending appeal or abatement proceeding with respect to the Taxes assessed on the Real Property.

3.16. Operating Agreements; Leased Property Agreements. Schedule 3.16 attached hereto sets forth a true, correct and complete list of (a) all Material Agreements and Leased Property Agreements, together with all amendments and modifications thereof, and (b) to Seller's knowledge, all other Operating Agreements, together with all amendments thereto and modifications thereof. Seller has delivered to Purchaser true, correct and complete, in all material respects, copies of (a) all Material Agreements and Leased Property Agreements (together with all amendments thereto and modifications thereof), and (b) to Seller's knowledge, all other Operating Agreements (together with all amendments thereto and modifications thereof), in Seller's possession or control and, to Seller's knowledge, all such Operating Agreements and Leased Property Agreements are in full force and effect. Seller has neither received nor delivered and, to Seller's knowledge, Manager has neither received nor delivered, any written notice of an uncured default under the Operating Agreements and Leased Property Agreements.

3.17. Authorizations. To Seller's knowledge, Schedule 3.17 attached hereto sets forth a true, correct and complete list of all Authorizations (excluding the Liquor License) utilized by or on behalf of Seller in connection with the ownership and operation of the Property. To Seller's knowledge, Seller has delivered to Purchaser true, correct and complete, in all material respects, copies of all Authorizations. To Seller's knowledge, all Authorizations are in full force and effect and Seller has not received any written notice from any Governmental Authority or other Person of (i) any violation, suspension, revocation or non-renewal of any Authorizations with respect to the Property that has not been cured or dismissed; or (ii) any failure by Seller to obtain any material Authorizations for the Property that has not been cured or dismissed.

3.18. Liquor License. Operating Lessee is the holder of the Liquor License. Seller has delivered to Purchaser a true, correct and complete copy of the Liquor License and the Liquor License is in full force and effect and Seller has not received any written notice from any Governmental Authority or

other Person of any violation, suspension, revocation or non-renewal of any Liquor License that has not been cured or dismissed.

3.19. Ground Lease. Seller has delivered to Purchaser a true, correct and complete copy of the Ground Lease and the Ground Lease is in full force and effect and has not been amended or modified except as set forth in the definition thereof. Ground Lessee has not received notice of default from Ground Lessor under the Ground Lease (which has not been previously cured or waived) and, to Seller's knowledge, Ground Lessee is not in default under the Ground Lease and Ground Lessor does not have an existing right to cancel or terminate the Ground Lease or to be relieved of any of its obligations thereunder based on any actual or alleged default on the part of Ground Lessee. Ground Lessee has not delivered written notice to Ground Lessor of any default under the Ground Lease, and to Seller's knowledge, Ground Lessor is not in default under the Ground Lease.

3.20. ROFO. Other than Manager's right of first offer set forth in Section 9.03.1 of the Management Agreement, which Seller represents and warrants has been waived by Manager, Seller has not otherwise granted, and there does not exist in favor of any person or party: (i) any option to buy all or any portion of the Property or interest therein (other than to Purchaser as contemplated by this Agreement), or (ii) any right of first offer or right of first refusal to purchase all or any portion of the Property. Manager has expressly waived any right of first offer or other option to purchase all or any portion of the Property or interest therein.

3.21. Financial Statements. Seller has delivered, or made available to Purchaser, true and complete copies of the financial statements of the Hotel prepared by Manager pursuant to the Management Agreement for the calendar years 2021, 2022 and 2023 in the form delivered to Seller from Manager, and year-to-date financial statements for 2024, which are the same financial reports and statements that Seller utilizes and relies on for its owner purposes and, to Seller's knowledge, fairly represent, in all material respects, the financial condition of the Property and are the same reports Seller utilizes and relies on for its own purposes.

3.22. Patriot Act. Seller is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a Specifically Designated National and Blocked person, or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation.

Subject to the limitations contained in Section 10.12 hereof, all rights and remedies arising in connection with the untruth or inaccuracy of any such representations and warranties shall survive the Closing of the transaction contemplated hereby as provided in Section 10.12.

The term "to Seller's knowledge" or similar phrase as used in this Article III shall mean the then actual knowledge of Jennifer Hansson and Chris Nixon (the "Seller Representatives"), without any duty of investigation or inquiry other than the inquiry of the general manager of the Hotel. Such Seller Representatives and general manager shall have no personal liability for such representations. Seller represents and warrants that the Seller Representatives are employees of Seller and/or its affiliates and are the individuals of Seller and its affiliates most knowledgeable of the ownership and operation of the Property.

3.23. LIMITATION ON SELLER'S REPRESENTATIONS AND WARRANTIES. PURCHASER ACKNOWLEDGES AND AGREES THAT, OTHER THAN A REPRESENTATION OR

WARRANTY EXPRESSLY SET FORTH IN THIS AGREEMENT (A BREACH OF WHICH PURCHASER MAY MAINTAIN AN ACTION IN ACCORDANCE WITH AND SUBJECT TO ARTICLE IX AND SECTION 10.12 OF THIS AGREEMENT) OR AS EXPRESSLY SET FORTH IN A CLOSING DOCUMENT, THE PROPERTY IS SOLD "AS IS" "WHERE IS" AND "WITH ALL FAULTS" AND NEITHER SELLER, NOR ANY AGENT OR REPRESENTATIVE OF SELLER, HAS MADE, NOR IS SELLER LIABLE FOR OR BOUND IN ANY MANNER BY ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, PROMISES, STATEMENTS, INDUCEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR ANY PART THEREOF, THE PHYSICAL CONDITION, ENVIRONMENTAL CONDITION, INCOME, EXPENSES OR OPERATION THEREOF, THE USES WHICH CAN BE MADE OF THE SAME OR ANY OTHER MATTER OR THING WITH RESPECT THERETO, INCLUDING ANY EXISTING OR PROSPECTIVE LEASES. WITHOUT LIMITING THE FOREGOING, PURCHASER ACKNOWLEDGES AND AGREES THAT, OTHER THAN A REPRESENTATION OR WARRANTY EXPRESSLY SET FORTH IN THIS AGREEMENT (A BREACH OF WHICH PURCHASER MAY MAINTAIN AN ACTION IN ACCORDANCE WITH AND SUBJECT TO ARTICLE IX AND SECTION 10.12 OF THIS AGREEMENT) OR AS EXPRESSLY SET FORTH IN A CLOSING DOCUMENT, SELLER IS NOT LIABLE FOR OR BOUND BY (AND PURCHASER HAS NOT RELIED UPON) ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS, OR FINANCIAL STATEMENTS PERTAINING TO THE OPERATION OF THE PROPERTY, OR ANY OTHER INFORMATION RESPECTING THE PROPERTY FURNISHED BY SELLER OR ANY EMPLOYEE, AGENT, CONSULTANT OR OTHER PERSON REPRESENTING OR PURPORTEDLY REPRESENTING SELLER. PURCHASER FURTHER ACKNOWLEDGES, AGREES, AND REPRESENTS THAT, OTHER THAN A REPRESENTATION OR WARRANTY EXPRESSLY SET FORTH IN THIS AGREEMENT (A BREACH OF WHICH PURCHASER MAY MAINTAIN AN ACTION IN ACCORDANCE WITH AND SUBJECT TO ARTICLE IX AND SECTION 10.12 OF THIS AGREEMENT) OR AS EXPRESSLY SET FORTH IN A CLOSING DOCUMENT, IT SHALL BE PURCHASING THE PROPERTY IN AN "AS IS" "WHERE IS" AND "WITH ALL FAULTS" CONDITION AT THE DATE OF CLOSING WITH RESPECT TO THE STRUCTURAL AND MECHANICAL ELEMENTS OF THE PROPERTY, THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY, THE FIRE-LIFE SAFETY SYSTEMS AND THE FURNITURE, FIXTURES AND EQUIPMENT LOCATED THEREON OR ATTACHED THERETO, ALL OF WHICH PURCHASER AND ITS CONSULTANTS SHALL HAVE INSPECTED AND EITHER APPROVED OR WAIVED OBJECTION TO ON OR PRIOR TO THE CLOSING AND PURCHASER HEREBY RELEASES SELLER AND THEIR AFFILIATES FROM ANY AND ALL OBLIGATIONS, LIABILITIES, CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, DAMAGES, JUDGMENTS, COSTS AND EXPENSES RELATING TO ANY OF THE FOREGOING; PROVIDED, HOWEVER, NOTWITHSTANDING THE FOREGOING, THE FOREGOING RELEASE AND WAIVER IS NOT INTENDED AND SHALL NOT BE CONSTRUED AS AFFECTING OR IMPAIRING ANY RIGHTS OR REMEDIES THAT PURCHASER MAY HAVE UNDER THE EXPRESS TERMS OF THIS AGREEMENT (SUBJECT, IN ALL EVENTS, TO SECTION 10.12, AS APPLICABLE) AGAINST SELLER WITH RESPECT TO (A) A BREACH OF ANY OF THE SELLER REPRESENTATIONS OR WARRANTIES SET FORTH IN ARTICLE III, (B) ANY OF THE OBLIGATIONS OF SELLER UNDER THIS AGREEMENT THAT EXPRESSLY SURVIVE THE CLOSING, (C) THE FRAUD OF ANY SELLER PARTIES, (D) ANY TORT, PERSONAL INJURY OR OTHER THIRD PARTY CLAIM FOR MATTERS ARISING DURING SELLER'S PERIOD OF OWNERSHIP OF THE PROPERTY WHICH CONSTITUTE A RETAINED LIABILITY OR FOR WHICH SELLER HAS EXPRESSLY AGREED TO INDEMNIFY PURCHASER PURSUANT TO THE TERMS HEREOF, OR (E) ANY RIGHT OF PURCHASER TO ASSERT, INFORM OR NOTIFY ANY PERSON THAT IS NOT PURCHASER OR AN AFFILIATE THEREOF IN ANY CLAIM OR ACTION BROUGHT BY ANY

PERSON AGAINST PURCHASER THAT PURCHASER REASONABLY BELIEVES THAT THE MATTER WHICH GAVE RISE TO SUCH CLAIM OCCURRED DURING THE TIME THAT SELLER OWNED THE PROPERTY. PURCHASER ALSO REPRESENTS THAT, AS OF THE CLOSING DATE, IT SHALL HAVE INDEPENDENTLY INVESTIGATED, ANALYZED AND APPRAISED TO ITS SATISFACTION THE VALUE AND THE PROFITABILITY OF THE PROPERTY. PURCHASER ACKNOWLEDGES THAT, TO THE EXTENT REQUIRED TO BE OPERATIVE, THE DISCLAIMERS OF WARRANTIES CONTAINED IN THIS SECTION ARE "CONSPICUOUS" DISCLAIMERS FOR PURPOSES OF ANY APPLICABLE LAW, RULE, REGULATION OR ORDER. FURTHERMORE, NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN THE EVENT PURCHASER HAS ACTUAL KNOWLEDGE OF A BREACH OF ANY OF SELLER'S REPRESENTATIONS AND WARRANTIES CONTAINED HEREIN AS OF THE EFFECTIVE DATE, PURCHASER HEREBY WAIVES (I) ANY CLAIMS AGAINST SELLER, AND (II) ANY RIGHT TO TERMINATE THIS AGREEMENT, IN EITHER CASE, SOLELY ON ACCOUNT OF ANY SUCH BREACH OF REPRESENTATION OR WARRANTY OF WHICH PURCHASER HAS ACTUAL KNOWLEDGE AS OF THE EFFECTIVE DATE. THE PROVISIONS OF THIS SECTION 3.23 SHALL SURVIVE THE CLOSING.

Purchaser recognizes that the Hotel and Personal Property are not new and that there exists a possibility that the Property is not in compliance with the requirements which would be imposed on a newly constructed hotel by presently effective federal, state and local building, plumbing, electrical, fire, health, disability, environmental and life safety laws, codes, ordinances, rules, orders and/or regulations (collectively, the "building codes"). The Hotel and other improvements on the Land may contain substances or materials no longer permitted to be used in newly constructed buildings including, without limitation, asbestos or other insulation materials, lead or other paints, wiring, electrical, or plumbing materials and may not contain other materials or equipment required to be installed in a newly constructed building. Purchaser shall have the opportunity to review the results of such investigations and inspections of the Property as Purchaser deemed necessary with respect to all such matters. Subject to Purchaser's rights to terminate pursuant to Section 2.4 and Purchaser's rights set forth in this Agreement, Purchaser agrees to accept and shall purchase the Property in an "AS-IS, WHERE IS" condition and at Closing to accept and assume the risk of noncompliance of the Property with all such building codes. Except with respect to those representations and warranties expressly set forth in this Agreement, Purchaser waives any right to excuse or delay performance of its obligations under this Agreement or to assert any claim against Seller (before or after Closing) arising out of any failure of the Property to comply with any such building codes. Purchaser acknowledges and agrees that Seller has endeavored to provide copies to Purchaser of all of the Operating Agreements, Occupancy Agreements, Leased Property Agreements, the Authorizations and the Warranties and Guarantees (the "Property Agreements"). Purchaser acknowledges that, upon Closing, Purchaser is assuming all Property Agreements whether or not copies of such have been provided to Purchaser; provided, however, for avoidance of doubt, Purchaser's obligation to assume any such Property Agreements, shall in no way limit Seller's liability following the Closing Date for any such failure by Seller to disclose any Property Agreements pursuant to the terms of this Agreement, including, without limitation, in the event Seller's failure to disclose any Property Agreements results in a breach by Seller of its representations and warranties included in Article III hereof.

Except with respect to those representations and warranties expressly set forth in this Agreement (a breach of which Purchaser may maintain an action in accordance with and subject to Article IX and Section 10.12 of this Agreement), it is specifically understood and agreed by Seller and Purchaser that Seller does not make, and shall not be deemed to have made, any representation, warranty or covenant with respect to (i) any Environmental Laws that may affect any of the Property or (ii) the presence or absence of any Hazardous or Toxic Substances in, on, above, under or about any of the Property.

Purchaser, for itself and its successors in interest, hereby releases Seller and its Affiliates from, and waives all claims and liability against Seller and its Affiliates for or attributable to, any structural, physical and/or environmental condition at the Property, including without limitation the presence, discovery or removal of any Hazardous Substances or Toxic Substances in, at, about or under such Property, or connected with or arising out of any and all claims or causes of action based upon any Environmental Laws, including, without limitation, CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by SARA Superfund Amendment and Reauthorization Act of 1986 and as may be further amended from time to time) or any related claims or causes of action or any other federal or state based statutory or regulatory or other causes of action for environmental contamination at, in or under any Property. As used in this Section 3.23, (A) the term "Environmental Laws" means all federal, State and local laws, codes, ordinances, rules, orders and regulations now or hereafter in effect relating to pollution or the protection of the environment, including without limitation, all laws, codes, ordinances, rules, orders and regulations governing the generation, use, collection, treatment, storage, transportation, recovery, removal, discharge, spill or disposal of any or all Hazardous or Toxic Substances, and (B) the term "Hazardous Substances" or "Toxic Substances" means materials and substances defined as "hazardous substances", "hazardous wastes", "toxic substances" or "toxic wastes" in (I) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601-9675, as amended by the Superfund Amendments and Reauthorization Act of 1988, and any further amendments thereto and rules, orders and regulations thereunder; (II) the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901-6992, as amended by the Hazardous and Solid Waste Amendments of 1984, and any further amendments thereto and rules, orders and regulations thereunder; or (III) any other Environmental Laws.

3.24. Updates to Schedules; Non-Breach Inaccuracy. Notwithstanding anything to the contrary in this Agreement, Seller shall have the right, but not the obligation, prior to Closing to amend Schedule 3.8 or Schedule 3.16 to this Agreement from time to time, without Purchaser's consent, to the extent that (i) such schedule needs to be amended, supplemented, or provided to maintain the truth or accuracy of the applicable representation or warranty or the information disclosed therein, (ii) Seller did not have knowledge as of the Effective Date of the matter being disclosed in such amendment, supplement, or new schedule, and (iii) the need for such amendment, supplement or new schedule was not the result of Seller's default of the terms and conditions of this Agreement (any such amendment, a "Post Due Diligence Disclosure"). For avoidance of doubt, Seller shall have no right to otherwise amend any of Seller's representations and warranties set forth herein (including, without limitation, those set forth in this Article III) or the schedules or exhibits thereto for any purposes under this Agreement (including for purposes of determining whether the closing condition to Purchaser's obligation to consummate the transactions contemplated hereunder as set forth in Section 5.1(b) has been satisfied). Notwithstanding anything to the contrary contained herein, Purchaser acknowledges that a Non-Breach Inaccuracy shall in no event be deemed a Seller Default hereunder, provided that Purchaser shall have the right, upon the occurrence of a Non-Breach Inaccuracy occurring prior to the Closing Date which causes a failure of the condition set forth in Section 5.1(b) of this Agreement to be satisfied, to terminate this Agreement upon written notice to Seller, in which event the Deposit shall be promptly returned to Purchaser and the parties shall have no further obligation or liability hereunder, except for such obligations or liabilities which expressly survive the termination of this Agreement. The provisions of this Section 3.24 shall survive the Closing.

#### **ARTICLE IV.** **PURCHASER'S REPRESENTATIONS AND WARRANTIES**

To induce Seller to enter into this Agreement and to sell the Property, Purchaser hereby makes the following representations and warranties:

4.1. Organization and Power. Purchaser is duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to enter into and perform its obligations under this Agreement and any document or instrument required to be executed and delivered on behalf of Purchaser hereunder.

4.2. Authorization and Execution. This Agreement has been duly authorized by all necessary action on the part of Purchaser, has been duly executed and delivered by Purchaser, constitutes the valid and binding agreement of Purchaser and is enforceable in accordance with its terms. The person executing this Agreement on behalf of Purchaser has the authority to do so.

4.3. Non-contravention. The execution and delivery of this Agreement and the performance by Purchaser of its obligations hereunder do not and will not contravene, or constitute a default under, any provisions of applicable law or regulation, Purchaser's organizational documents, or any agreement, judgment, injunction, order, decree or other instrument binding upon Purchaser or result in the creation of any lien or other encumbrance on any asset of Purchaser.

4.4. Litigation. There is no action, suit or proceeding, pending or known to be threatened, against or affecting Purchaser in any court or before any arbitrator or before any Governmental Authority which (a) in any manner raises any question affecting the validity or enforceability of this Agreement or any other agreement or instrument to which Purchaser is a party or by which it is bound and that is to be used in connection with, or is contemplated by, this Agreement, (b) would materially and adversely affect the business, financial position or results of operations of Purchaser, or (c) would materially and adversely affect the ability of Purchaser to perform its obligations hereunder, or under any document to be delivered pursuant hereto.

4.5. Patriot Act. Purchaser is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a Specifically Designated National and Blocked person, or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation.

4.6. Terrorism. None of Purchaser or, to Purchaser's knowledge, its Affiliates, is in violation of any Anti-Money Laundering and Anti-Terrorism Laws.

(a) None of Purchaser or, to Purchaser's knowledge, its Affiliates, is acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics traffickers, including those persons or entities that appear on the Annex to the Executive Order, or are included on any relevant lists maintained by the Office of Foreign Assets Control of U.S. Department of Treasury, U.S. Department of State, or other U.S. government agencies, all as may be amended from time to time.

(b) None of Purchaser or, to Purchaser's knowledge, its Affiliates or, without inquiry, any of its brokers or other agents, in any capacity in connection with the purchase of the Property (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any person included in the lists set forth in the preceding paragraph; (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order; or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or

attempts to violate, any of the prohibitions set forth in any Anti-Money Laundering and Anti-Terrorism Laws.

The term "to Purchaser's knowledge" or similar phrase as used in this Article IV, shall mean the then actual current conscious knowledge of Daniel Lippman without further investigation or inquiry.

**ARTICLE V.**  
**CONDITIONS PRECEDENT**

5.1. As to Purchaser's Obligations. Purchaser shall have the remedies and Closing obligations set forth in Section 9.1 hereof, which section contains the sole and exclusive remedies and Closing obligations of Purchaser, if any of the following conditions are not satisfied or waived by Purchaser on or before the Closing Date (unless the failure to satisfy such condition is caused by the default of Purchaser or its Affiliates under this Agreement, or is otherwise within the reasonable control of Purchaser):

(a) Seller's Deliveries. Seller shall have delivered to or for the benefit of Purchaser all of the documents required of Seller pursuant to and in accordance with Sections 7.2 and 7.4 hereof.

(b) Representations, Warranties and Covenants; Obligations of Seller. All of Seller's representations and warranties made in this Agreement shall be true and correct in all material respects as of the date hereof and as of the Closing Date as if then made, and Seller shall have performed in all material respects all of its covenants and other obligations under this Agreement.

(c) Operating Lease. The Operating Lease between Ground Lessee and Operating Lessee shall be terminated without cost or expense to Purchaser.

(d) Ground Lessor Consent and Estoppel. Purchaser shall have obtained the Ground Lessor Consent and Estoppel.

(e) Title Policy. Subject only to Purchaser's payment of the applicable premium for the Title Policy, the Title Company shall be unconditionally and irrevocably obligated to issue the Owner's Title Policy to Purchaser, pursuant to which the Title Company insures Purchaser's ownership of a leasehold estate in the Real Property described on Exhibit A, subject only to Permitted Title Exceptions.

(f) Liquor License. Either the Liquor License shall be issued or transferred to the New Permittee or the parties shall be prepared to execute an Interim Liquor Agreement, to be executed at Closing, in each case, in accordance with Section 8.6.

Each of the conditions contained in this Section are intended for the benefit of Purchaser and may be waived in whole or in part, in writing, by Purchaser or automatically if Purchaser proceeds to Closing.

5.2. As to Seller's Obligations. Seller shall have the remedies and Closing obligations set forth in Section 9.2 hereof, which section contains the sole and exclusive remedies and Closing obligations of Seller, if any of the following conditions are not satisfied or waived by Seller on or before the Closing Date (unless the failure to satisfy such condition is caused by the default of Seller or its Affiliates under this Agreement, or is otherwise within the reasonable control of Seller):

(a) Purchaser's Deliveries. Purchaser shall have delivered to or for the benefit of Seller all of the documents and payments required of Purchaser pursuant to and in accordance with Sections 7.3 and 7.4 hereof.

(b) Representations, Warranties and Covenants; Obligations of Purchaser. All of Purchaser's representations and warranties made in this Agreement shall be true and correct in all material respects as of the date hereof and as of the date of Closing as if then made and Purchaser shall have performed in all material respects all of its covenants and other obligations under this Agreement.

(c) Management Agreement. Purchaser shall have obtained the Manager Approval (at Purchaser's expense (including, without limitation, any application, transfer, termination or other fees chargeable)) and Purchaser shall have assumed all obligations of Seller under the Management Agreement pursuant to a written agreement in form and substance as and to the extent required by the Management Agreement (and approved by Manager), provided that Seller shall reasonably cooperate with Purchaser in connection with same.

(d) Ground Lessor Consent and Estoppel. Purchaser shall have obtained the Ground Lessor Consent and Estoppel.

Each of the conditions contained in this Section are intended for the benefit of Seller and may be waived in whole or in part, in writing, by Seller or automatically if Seller proceeds to Closing.

## **ARTICLE VI.** **COVENANTS OF SELLER AND PURCHASER**

6.1. Operating Agreements/Occupancy Agreements/Leased Property Agreements. From and after the Effective Date, and subject to the terms of the Management Agreement, Seller shall not (and shall not, to the extent of Seller's rights under the Management Agreement, permit Manager to) enter into any new Operating Agreements, Occupancy Agreements or Leased Property Agreements or any modifications to any such agreements, except as required by the terms thereof, unless (a) any such agreement or modification will not bind Purchaser or the Property after the date of Closing or is subject to termination on not more than sixty (60) days' notice without penalty, or (b) Seller has obtained Purchaser's prior written consent to such agreement or modification, which consent shall be in Purchaser's sole and absolute discretion, and in all events shall be deemed withheld if, within five (5) business days following Purchaser's receipt of Seller's request, Purchaser fails to provide its consent (the "Approval Standard"). Seller, at no cost to Seller, shall use its reasonable efforts to assist Purchaser in obtaining any required consents to the assignment to Purchaser of the Operating Agreements or Leased Property Agreements; provided, however, Purchaser shall pay all fees, charges and expenses relating to such consents. Seller may cancel any Operating Agreement, Occupancy Agreement or Leased Property Agreement at any time prior to the Closing with the prior written consent of Purchaser, which consent shall be subject to the Approval Standard; provided, however, if Seller elects to cancel any such agreement, Seller shall pay any termination fee associated with such termination, and shall give Purchaser notice of such termination.

6.2. Warranties and Guaranties. Seller shall not before or after Closing release or modify any Warranties and Guaranties, if any, except with the prior written consent of Purchaser, which consent shall be subject to the Approval Standard.

6.3. Insurance. Seller shall pay, or caused to be paid, all premiums on, and shall not cancel or voluntarily allow to expire, any of Seller's Insurance Policies unless such policy is replaced, without any lapse of coverage, by another policy or policies providing coverage at least as extensive as the policy or policies being replaced.

6.4. Operation of Property Prior to Closing. Seller covenants and agrees with Purchaser that, to the extent it is legally entitled to do so, between the date of this Agreement and the date of Closing and subject to the terms of the Management Agreement:

(a) Subject to the restrictions contained herein, as well as seasonal differences and events or conditions beyond Seller's control, Seller shall cause Manager to operate the Property in substantially the same manner in which it operated the Property prior to the execution of this Agreement; provided, however, nothing in this Agreement shall be construed to require Seller to make any capital repairs or improvements other than repairs in the ordinary course of business.

(b) Seller shall pay (subject to legal rights of appeal and protest) prior to delinquency all ad valorem, occupancy and sales taxes due and payable with respect to the Property or the operation of the Hotel.

(c) Subject to seasonal differences, market conditions and events or conditions beyond Seller's reasonable control, Seller shall cause Manager to continue to take guest room reservations and to book functions and meetings and otherwise to promote the business of the Property in generally the same manner as it did prior to the execution of this Agreement; and all advance room bookings and reservations and all meetings and function bookings shall be booked at rates, prices and charges charged by Seller or Manager for such purposes in the ordinary course of business consistent with past practices. Seller acknowledges that the Purchase Price includes the transfer of Advance Bookings and any payments and/or deposits made pursuant to such Advance Bookings.

(d) Seller shall promptly advise Purchaser of any litigation, arbitration or administrative hearing concerning the Property of which Seller obtains actual knowledge.

(e) Seller shall not remove or cause or permit to be removed any material part or portion of the Real Property or the Tangible Personal Property owned by Seller other than in the normal course of business without the prior written consent of Purchaser, which consent shall be subject to the Approval Standard.

6.5. Employee Claims. Purchaser shall hold harmless, indemnify and defend Seller, Manager, and their Affiliates from and against any and all claims, causes of action, proceedings, judgments, damages, penalties, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) incurred by Seller, Manager or any Affiliate thereof with respect to claims, causes of action, judgments, damages, penalties and liabilities asserted by Hotel Employees to the extent arising out of or related to any act, failure to act, any transaction or any facts or circumstances arising or accruing on or after the Closing Date or for which Purchaser received a proration credit pursuant to Section 7.6 (but only if and to the extent of any such credit), including, without limitation (A) the termination of any Hotel Employees; (B) any and all liability under the WARN Act; (C) any alleged discrimination, breach of contract or other wrongful termination (under federal statutes, state statutes or common law); and (D) any alleged right to workers' compensation benefits, unemployment compensation or statutory or contractual severance. The provisions of this Section 6.5 shall survive the Closing.

6.6. Ground Lessor Consent and Estoppel. Purchaser shall pursue, with Seller's reasonable cooperation, and obtain a consent and estoppel, on Ground Lessor's form, executed by Ground Lessor and certified to Seller, Purchaser and Purchaser's lender, which provides the following: (i) Ground Lessor consents to the assignment of Seller's interest as Ground Lessee under the Ground Lease to Purchaser and agrees that Seller and its Affiliates shall be released from all duties, liabilities and obligations under the Ground Lease and any guarantee thereof to the extent first arising from and after the Closing Date, and (ii) (a) the Ground Lease is in full force and effect, (b) whether or not the Ground Lease has been modified or amended in any respect, and submitting copies of such modifications or amendments, and (c) there are not any existing defaults under the Ground Lease to the knowledge of the party executing the estoppel (the "Ground Lessor Consent and Estoppel"). Purchaser and Seller shall reasonably cooperate to obtain the Ground Lessor Consent and Estoppel. In the event that (i) Ground Lessor declines in writing to provide the Ground Lessor Consent and Estoppel, or (ii) Purchaser has not obtained the Ground Lessor Consent and Estoppel on or before the Closing Date, then, so long as Purchaser has diligently and in good-faith pursued the Ground Lessor Consent and Estoppel, this Agreement shall automatically terminate, the Deposit shall be promptly returned to Purchaser and the parties hereto shall be released from all further obligations hereunder, except those which expressly survive a termination of this Agreement. Furthermore, Seller agrees to use commercially reasonable efforts to file with the Office of the City Clerk of San Diego, California, prior to the Closing Date, that certain Third Amendment to Percentage Lease by and between Ground Lessor and Ground Lessee having an effective date of May 28, 2019 (the "Third Amendment to Ground Lease") or a memorandum of such Third Amendment to Ground Lease with the previously executed Third Amendment to Ground Lease attached thereto.

## **ARTICLE VII.** **CLOSING**

7.1. Closing. The Closing shall occur on the Closing Date. Notwithstanding anything herein to the contrary, in the event the Closing has not occurred on or before August 30, 2024 (the "Outside Date"), either party may terminate this Agreement at any time after the Outside Date. As more particularly described below, at the Closing the parties hereto will (i) execute or cause to be executed, or instruct the Escrow Agent to release, all of the documents required to be delivered in connection with the transactions contemplated hereby (the "Closing Documents"), (ii) deliver or cause to be delivered the same to Escrow Agent, and (iii) take or cause to be taken all other action required to be taken in respect of the transactions contemplated hereby. The Closing will occur through escrow at the Title Company, or at such other place as Purchaser and Seller may mutually agree. At the Closing, Purchaser shall deliver the balance of the Purchase Price to Escrow Agent as provided herein. As provided herein, the parties hereto will agree upon adjustments and prorations to certain items which cannot be exactly determined at the Closing and will make the appropriate adjustments with respect thereto. Possession of the Property shall be delivered to Purchaser at the Closing, subject to Permitted Title Exceptions and the rights of tenants, licensees and concessionaires under the Occupancy Agreements and guests in possession.

7.2. Seller's Deliveries. At the Closing, Seller shall deliver or shall cause Manager to deliver, as applicable, to Escrow Agent all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged and/or sworn, on behalf of Seller, and shall be dated to be effective as of the Closing Date:

- (a) The Ground Lease Assignment.
- (b) The Bill of Sale.
- (c) The Assignment and Assumption Agreement.

(d) The Assignment of Occupancy Agreements.

(e) Provided Manager Approval has been obtained by Purchaser, an Assignment and Assumption of Management Agreement in the form attached hereto as Exhibit H (the "Assignment and Assumption of Management Agreement"), executed by Operating Lessee.

(f) The FIRPTA Certificate.

(g) Evidence of termination of the Operating Lease.

(h) California Real Estate Withholding Statement – Form 593(c).

(i) A certificate or registration of title for any owned vehicle or other Personal Property included in the Property which requires such certification or registration, duly executed by Seller, conveying such vehicle or other Personal Property to Purchaser; provided, however, the parties hereto acknowledge that such execution and transfer of title may occur after Closing;

(j) The Owner's Affidavit;

(k) The Seller's Closing Certificate attached hereto as Exhibit J;

(l) Any other document or instrument specifically required by this Agreement to be delivered by Seller on or before the Closing Date.

7.3. Purchaser's Deliveries. At or prior to the Closing, Purchaser shall deliver or cause to be delivered to Escrow Agent the following, duly executed and, where applicable, acknowledged and/or sworn on behalf of Purchaser, and dated as of the Closing Date:

(a) The Assignment and Assumption Agreement.

(b) The Assignment of Occupancy Agreements.

(c) The Assignment and Assumption of Management Agreement executed by Purchaser.

(d) The Ground Lease Assignment.

(e) The Ground Lessor Consent and Estoppel executed by Ground Lessor.

(f) A preliminary change of ownership report.

(g) Any other documents or instruments specifically required by this Agreement to be delivered by Purchaser on or before the Closing Date.

(h) The Purchaser's Closing Certificate attached hereto as Exhibit K;

(i) The balance of the Purchase Price described in and in accordance with Section 2.2 hereof.

7.4. Mutual Deliveries. At the Closing, Purchaser and Seller shall mutually execute and deliver or cause to be delivered:

(a) A closing statement reflecting the Purchase Price and the adjustments and prorations required hereunder and the allocation of income and expenses required hereby.

(b) Subject to the provisions of Section 8.6 hereof, such other documents, instruments and undertakings as may be required by the liquor authorities of the State where the Property is located, or of any county or municipality or governmental entity having jurisdiction with respect to the transfer or issue of liquor licenses or alcoholic beverage licenses or permits for the Hotel, to the extent not theretofore executed and delivered.

(c) The Assignment and Assumption of Management Agreement executed by Manager (the 'Manager Deliverable').

(d) Such other and further documents, papers and instruments as may be reasonably required by the parties hereto or their respective counsel or the Title Company which are not inconsistent with this Agreement or the other Closing Documents.

To the extent the delivery of any of the items in Sections 7.2, 7.3 or 7.4 of this Agreement are conditions precedent to the obligation of a party pursuant to Sections 5.1 or 5.2 of this Agreement, and the condition relating to any such item is not satisfied as of Closing, but the party for whose benefit such unsatisfied condition is made elects, in its sole and absolute discretion, nonetheless, to proceed to Closing, the delivery of the item applicable to the unsatisfied condition shall not be required pursuant to the provisions of Section 7.2, 7.3 or 7.4 of this Agreement. Notwithstanding anything herein to the contrary, the parties hereto acknowledge and agree that in the event that the Manager Deliverable is not obtained by the Closing Date (a "Manager Failure") and such Manager Failure is not due to Seller's failure to comply with its obligations under the Management Agreement relating to a sale of the Property, the parties hereto acknowledge and agree that such Manager Failure shall in no event be deemed a Seller Default, whereby upon such Manager Failure either party may terminate this Agreement, the Deposit shall be promptly delivered to Seller, and the parties hereto shall be released of all further obligations hereunder with respect to the Property except those which expressly survive a termination of this Agreement.

7.5. Closing Costs. Except as is explicitly provided in this Agreement, each party hereto shall pay its own legal fees and expenses. All filing fees for Ground Lease Assignment, sales or other similar taxes and surtaxes due with respect to the Ground Lease Assignment, as well as the cost for title insurance, endorsements and surveys, and any other costs specified on Schedule 1 attached hereto, shall all be paid in accordance with allocations set forth in Schedule 1. Seller shall pay any assignment fee due under the Ground Lease together with Ground Lessor's reasonable attorneys' fees in connection with same. To the extent releases or corrective instruments are required to be delivered by Seller pursuant to the terms of this Agreement, Seller shall pay for the costs associated with the releases of any deeds of trust, mortgages and other Monetary Title Encumbrances encumbering the Property and for any costs associated with any corrective instruments. All other costs (except any costs incurred by either party for its own account) which are necessary to carry out the transactions contemplated hereunder shall be allocated between Purchaser and Seller in accordance with local custom in the jurisdiction in which the Hotel is located. The provisions of this Section 7.5 shall survive the Closing and any termination of this Agreement.

7.6. Revenue and Expense Allocations. All revenues and expenses with respect to the Property, and applicable to the period of time before and after Closing, determined in accordance with sound accounting principles consistently applied, shall be allocated between Seller and Purchaser as provided herein. Pursuant to such allocation, Seller shall be entitled to all revenue and shall be responsible for all expenses for the period of time up to the Cut-Off Time, and Purchaser shall be entitled

to all revenue and shall be responsible for all expenses for the period of time following the Cut-Off Time. Such allocations and adjustments shall be shown on the closing statement (with such supporting documentation as the parties hereto may reasonably require being attached as exhibits to the closing statements) and shall increase or decrease (as the case may be) the cash amount payable by Purchaser pursuant to Section 2.2 hereof. All prorations shall be made on the basis of the actual number of days in the year and month in which the Closing occurs or in the period of computation. Without limiting the generality of the foregoing, the following items of revenue and expense shall be allocated and prorated between Purchaser and Seller at Closing:

- (a) Current rents (excluding rent under the Operating Lease).
- (b) Real estate and personal property taxes (with maximum allowable discounts for early or prompt payment).
- (c) Revenue and expenses under the Operating Agreements and Leased Property Agreements to be assigned to and assumed by Purchaser. Seller and Purchaser agree that expenses under Operating Agreements which constitute ongoing construction, capital improvement and other similar work shall be allocated to Seller as to work completed prior to the Closing Date (and applicable retainage related thereto), and shall be allocated to Purchaser as to work completed from and after the Closing Date (and applicable retainage related thereto).
- (d) Utility charges (including, but not limited to, charges for phone service, cable television, gas, water, sewer and electricity).
- (e) Municipal or other governmental improvement liens and special assessments, which shall be paid by Seller at Closing where the work has been completed, and which shall be assumed by Purchaser at Closing and paid by Purchaser where the work has been authorized or started, but not completed; provided, however, that if such liens or assessments are payable in installments, the amount of the installment applicable to the period which includes the Closing Date shall be allocated in the same manner as other items of expenses herein; and for all other installments, Seller shall be responsible for the payment of and shall pay such installments relating to periods prior to the Closing Date and Purchaser shall be responsible for the payment of and shall pay such installments relating to periods from and after the Closing Date.
- (f) License and permit fees, where transferable.
- (g) All other revenues and expenses of the Property, including, but not limited to, such things as restaurant, bar and meeting room income and expenses and the like.
- (h) The Rooms Ledger and housekeeping costs for the date of Closing (to be apportioned equally between Seller and Purchaser).
  - (i) The rents and other amounts and charges payable to Ground Lessor under the Ground Lease.
  - (j) Such other items as are usually and customarily prorated between purchasers and sellers of hotel properties in the area where the Property is located.

Seller shall receive a credit for any prepaid expenses paid by Seller prior to the Closing and accruing with respect to periods on or after the Closing Date. Purchaser shall receive a credit against the Purchase Price for the total of (i) prepaid rents, (ii) prepaid room receipts and deposits, function receipts

and deposits and other reservation receipts and deposits, and (iii) unforfeited security deposits together with any interest payable to a tenant thereon held by Seller under Occupancy Agreements. At Closing, Seller shall sell to Purchaser in connection with the Hotel, and Purchaser shall purchase from Seller, at face value, in addition to the Purchase Price: (i) all cash funds in connection with the Hotel guest operations at the Property and any cash amounts, including those held in reserve by a lender or Manager except for the Conveyed FF&E Reserve (which shall be conveyed to Purchaser as part of the Purchase Price), that is transferred to Purchaser or remains in accounts or reserves for the benefit of the Hotel after Closing; (ii) the so-called "guest ledger" as mutually approved by Purchaser and Seller for the Hotel of guest accounts receivable payable to the Hotel as of the check-out time for the Hotel on the Closing Date (based on guests and customers then using the Hotel) both (1) in occupancy from the preceding night through check out time the morning of the Closing Date, and (2) previously in occupancy prior to check out time on the Closing Date; and (iii) the amount of prepaid rent and reserves held under the Ground Lease. For purposes of this Agreement, transfer or sale at face value shall have the following meanings: (A) for cash and cash reserve amounts, an amount equal to the total of all cash funds, cash reserve amounts, and prepaid rent under the Ground Lease that are transferred to Purchaser; and (B) for the guest ledger, the total of all credit card or other accounts receivable, as shown on the records of the Hotel, less actual collection costs (i.e., fees retained by credit card companies), less accounting charges for rooms furnished on a gratuity or complimentary basis to any hotel staff or as an accommodation to other parties and less Purchaser's one-half (1/2) share of the Rooms Ledger. The purchase price of said petty cash fund and guest ledger shall be paid to Seller at Closing by a credit to Seller in the computation of the adjustments and prorations on the Closing Date.

Buyer shall receive a credit at Closing for all Compensation to the extent earned, accrued and unpaid prior to the Cut-Off Time (unless Seller or Manager has otherwise paid or cause to be paid on or before the Cut-off Time, all such Compensation).

Seller shall be required to pay or cause to be paid all retail sales (as distinguished from any tax on the sale of any personal property effected pursuant to this Agreement), occupancy and liquor taxes and like impositions up to but not including the date of Closing. Any such taxes applicable to the Rooms Ledger shall be apportioned equally between Seller and Purchaser.

If accurate allocations cannot be made at Closing because current bills are not obtainable (as, for example, in the case of utility bills and/or real estate or personal property taxes), the parties shall allocate such revenue or expenses at Closing on the best available information, subject to adjustment upon receipt of the final bill or other evidence of the applicable revenue or expense (the "Post-Closing Adjustment"), which Post-Closing Adjustment shall occur ninety (90) days following the Closing Date (such period, the "Post-Closing Adjustment Period"). The obligation to make the Post-Closing Adjustment shall survive the closing of the transaction contemplated by this Agreement. Any revenue received or expense incurred by Seller or by Purchaser with respect to the Property after the date of Closing shall be promptly allocated in the manner described herein and the parties shall promptly pay or reimburse any amount due. If Seller and Purchaser are unable to agree on the closing statement allocations on the Closing Date, the Closing shall occur and a preliminary closing statement shall be signed with respect to such amounts and issues that are agreed upon by Seller and Purchaser. With respect to any closing statement amounts or issues that are not agreed upon at Closing, Seller and Purchaser shall thereafter work in good faith to resolve, allocate or prorate such amounts or issues; provided that if such amounts or issues are not fully agreed upon and paid within ten (10) days after the Closing, then, in such event, such amounts or issues shall be submitted to an independent certified public accountant with a hospitality practice reasonably acceptable to Seller and Purchaser, for final resolution, and Seller and Purchaser agree to be bound by the determination of such accountant. The costs and expenses incurred in connection with the services of

such accountant shall be borne and paid equally by Purchaser and Seller. The provisions of this Section 7.6 shall survive the Closing.

7.7. Safe Deposit Boxes. On the Closing Date, Seller shall cause Manager to make available to Purchaser at the Hotel all receipts and agreements in Manager's possession relating to all safe deposit boxes in use at the Hotel, other than safes or lockboxes, if any, located inside individual guest rooms in the Hotel. From and after the Closing, Seller, and Manager shall be relieved of any and all responsibility in connection with each said box, and Purchaser shall indemnify Seller, Manager and any Affiliate thereof and hold them harmless from and against any claim, liability, cost or expense (including reasonable attorneys' fees) incurred by them with respect thereto. Seller shall indemnify and hold Purchaser harmless from any other liability, claim, cost or expense (including reasonable attorney's fees) with respect to such safety deposit box arising prior to the Closing Date. The provisions of this Section 7.7 shall survive the Closing.

7.8. Inventory of Baggage. The representatives of Seller and/or Manager, and of Purchaser shall prepare an inventory of baggage at the Hotel as of 12:00 noon on the Closing Date (which inventory of baggage shall be binding on all parties thereto) of (i) all luggage, valises and trunks checked or left in the care of the Hotel by guests then or formerly in the Hotel, (ii) parcels, laundry, valet packages and other property of guests checked or left in the care of the Hotel by guests then or formerly in the Hotel (excluding, however, property in Hotel safe deposit boxes), (iii) all luggage or other property of guests retained by Seller as security for any unpaid accounts receivable, and (iv) all items contained in the Hotel lost and found. Purchaser shall be responsible from and after the Closing Date for all baggage and other items listed in such inventory of baggage, and Purchaser shall indemnify and hold Seller, Manager and any Affiliate thereof harmless from and against any claim, liability, cost or expense (including reasonable attorneys' fees) incurred by them with respect thereto. Seller hereby agrees to hold Purchaser harmless from any other liability or claims with respect to such inventory of baggage arising prior to the Closing Date. The provisions of this Section 7.8 shall survive the Closing.

7.9. Acquisition and Payment for Inventory. Seller agrees to assign to Purchaser and Purchaser agrees to assume from Seller the Inventory as part of the Purchase Price; provided, however, Seller shall receive a credit to the Purchase Price for any unopened and unexpired cases of Consumables at Seller's actual cost for such items. The parties hereto shall jointly take inventories of all Consumables as near as practical to the Closing Date, and all adjustments and payments due thereon shall be made at Closing.

7.10. Reserves. Seller shall receive a credit for all amounts held in FF&E Reserve in excess of the Conveyed FF&E Reserve, solely if and to the extent such amounts in excess of the Conveyed FF&E Reserve shall remain on deposit in the FF&E Reserve for the benefit of Purchaser from and after Closing under the Management Agreement. Consistent with Section 7.6, and notwithstanding anything to the contrary contained herein, Seller shall not receive a credit for the Conveyed FF&E Reserve (which shall be conveyed to Purchaser as part of the Purchase Price). Notwithstanding anything to the contrary contained herein, in the event (for any reason) the amount held in the FF&E Reserve at Closing is less than the Conveyed FF&E Reserve, an amount equal to the difference between \$5,000,000 and the amount held in the FF&E Reserve at Closing will be credited to Purchaser at Closing.

7.11. Vouchers. Purchaser shall receive a credit equal to the face value of any outstanding unexpired (under Applicable Law) Vouchers as of the Closing Date. In the event that no face value is set forth on such Voucher, the credit therefor shall be based on the current value of the good or service being provided or, in the event of any Vouchers for guest rooms at the Property, the average daily rate for the applicable room type.

7.12. Assumption. At Closing, Purchaser shall assume all (i) obligations which Purchaser expressly assumes under this Agreement, (ii) Advance Bookings, (iii) liabilities for which Purchaser receives a credit to the Purchase Price on the closing statement or pursuant to any post-closing adjustments, and (iv) obligations under Permitted Title Exceptions which accrue to the period from and after the Closing Date, or which accrue to the period prior to the Closing Date and for which Purchaser receives a credit to the Purchase Price on the closing statement or pursuant to any post-closing adjustments. The provisions of this Section 7.12 shall survive the Closing.

## **ARTICLE VIII.** **GENERAL PROVISIONS**

8.1. Fire or Other Casualty. Seller agrees to give Purchaser prompt notice of any fire or other casualty to the Property costing more than Twenty-Five Thousand Dollars (\$25,000) to repair and occurring between the Effective Date and the Closing Date of which Seller has knowledge. If, prior to Closing, the Property is damaged by fire or other casualty which is fully insured (without regard to deductibles) and would cost not more than two percent (2%) of the Purchase Price and require less than 180 days to repair, then neither party shall have the right to terminate its obligations under this Agreement to purchase or sell the Property by reason thereof and the Closing shall take place without abatement of the Purchase Price, but Seller shall assign to Purchaser at the Closing all of Seller's interest in any insurance proceeds (except use and occupancy insurance, rent loss and business interruption insurance, and any similar insurance for the period preceding the Closing Date) that may be payable to Seller on account of any such fire or other casualty, to the extent such proceeds have not been previously expended or are otherwise required to reimburse Seller for actual expenditures reasonably incurred for restoration (it being understood that any proposed restoration by Seller on account of any such casualty during the term of this Agreement shall require Purchaser's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed), plus Purchaser shall receive a credit against the Purchase Price in the amount of any deductibles under any policies related to such proceeds. If any such damage due to fire or other casualty would cost in excess of two percent (2%) of the Purchase Price or require more than 180 days to repair, then Purchaser may terminate its obligations under this Agreement to purchase the Property by written notice given to Seller within ten (10) business days after Seller has given Purchaser the notice of damage or casualty referred to in this Section 8.1 (provided Purchaser shall be entitled to a delay in the Closing as required to give effect to such ten (10) business day period, and any failure to respond within such required period, shall be deemed to be Purchaser's election to terminate this Agreement in accordance with this Section 8.1), in which case the Deposit shall be promptly returned to Purchaser and the parties hereto shall be released of all further obligations hereunder with respect to the Property except those which expressly survive a termination of this Agreement. Should Purchaser elect to proceed to Closing notwithstanding the amount of the insured loss or the time required for repairs, the Closing shall take place without abatement of the Purchase Price and at Closing, Seller shall assign to Purchaser the insurance proceeds and grant to Purchaser a credit against the Purchase Price equal to the amount of the applicable deductible under any policies related to such proceeds.

8.2. Condemnation. After the Effective Date, Seller agrees to give Purchaser prompt (but in no event more than two (2) business days after obtaining knowledge thereof) notice of any notice it receives of any taking or threat of taking by condemnation of any part of or rights appurtenant to the Real Property. If such taking is likely to (a) materially interfere with the operation or use of the Hotel, (b) have an adverse economic impact to the value of the Hotel, including, but not limited to, due to a reduction in tenant rights set forth in the Ground Lease, or (c) result in the improvements on the Property being non-compliant with applicable law, building codes or zoning codes (including, without limitation, parking requirements) (subclauses (a), (b), or (c), a "Material Taking"), the Purchaser may terminate its obligations under this Agreement to purchase the Property by written notice to Seller within ten (10) days

after Seller has given Purchaser the notice of taking referred to in this Section 8.2 (provided Purchaser shall be entitled to a delay in the Closing as required to give effect to such ten (10) business day period, and any failure to respond within such required period, shall be deemed to be Purchaser's election to terminate this Agreement in accordance with this Section 8.2). If Purchaser exercises (or is deemed to have exercised) its option to terminate its obligations to purchase the Property pursuant to this Section 8.2, the Deposit shall be promptly returned to Purchaser and the parties hereto shall be released from all further obligations hereunder with respect to the Property, except those which expressly survive a termination of this Agreement. If Purchaser does not so elect to terminate its obligations to purchase the Property, then the Closing shall take place as provided herein, and Seller shall assign to Purchaser at the Closing all of Seller's interest in any condemnation award or payments in lieu of condemnation which may be payable to Seller on account of any such condemnation or threat thereof and, at Closing, Seller shall credit to the amount of the Purchase Price payable by Purchaser the amount, if any, of condemnation proceeds or payments in lieu of condemnation received by Seller between the Effective Date and Closing less (i) any amounts actually and reasonably expended by Seller or Manager in collecting such sums, (ii) any amounts which are reasonably allocated to lost earnings or other actual damages or losses (other than unrepairs property damages) reasonably allocated or attributed to the period of time prior to Closing. If, prior to the Closing, there shall occur a taking by condemnation of any part of or rights appurtenant to the Property that is not a Material Taking, Purchaser shall not have the right to terminate its obligations to purchase the Property under this Agreement by reason thereof and the Closing shall take place without abatement of the Purchase Price, but Seller shall assign to Purchaser at the Closing all of Seller's interest in any condemnation award or payments in lieu of condemnation which may be payable to Seller on account of any such condemnation or threat thereof and, at Closing, Seller shall credit to the amount of the Purchase Price payable by Purchaser the amount, if any, of condemnation proceeds or payments in lieu of condemnation received by Seller between the Effective Date and Closing less (i) any amounts reasonably and actually expended by Seller or Manager in collecting such sums, and (ii) any amounts which are reasonably allocated to lost earnings or other damages or losses (other than unrepairs property damages) reasonably allocated or attributed to the period of time prior to Closing. Provided Purchaser has not exercised its right to terminate this Agreement pursuant to this Section 8.2, Seller shall promptly notify Purchaser in advance regarding any proceeding or negotiation with respect to the condemnation and Purchaser shall have a reasonable right, at its own cost and expense, to appear and participate in any such proceeding or negotiation. For purposes of Sections 8.1 and 8.2 of this Agreement, estimates of costs and time required for restoration or repair shall be made by an architect or engineer, as appropriate, designated by Seller and reasonably acceptable to Purchaser.

8.3. **Broker.** The parties acknowledge that Broker has been the procuring cause of this Agreement. It shall be the obligation of Seller to pay Broker its commission, when, as and if, and only if, the transaction contemplated hereby actually closes, in accordance with a separate agreement between the Broker and Seller. There is no other real estate broker involved in this transaction. Purchaser warrants and represents to Seller that Purchaser has not dealt with any other real estate broker in connection with this transaction, nor has Purchaser been introduced to the Property or to Seller by any other real estate broker, and Purchaser shall indemnify Seller and hold Seller harmless from and against any claims, suits, demands or liabilities of any kind or nature whatsoever arising on account of the claim of any other person, firm or corporation to a real estate brokerage commission or a finder's fee as a result of having dealt with Purchaser, or as a result of having introduced Purchaser to Seller or to the Property. In like manner, Seller warrants and represents to Purchaser that Seller has not dealt with any other real estate broker in connection with this transaction, nor has Seller been introduced to Purchaser by any other real estate broker, and Seller shall indemnify Purchaser and save and hold Purchaser harmless from and against any claims, suits, demands or liabilities of any kind or nature whatsoever arising on account of the claim of any person, firm or corporation to a real estate brokerage commission or a finder's fee as a result

of having dealt with Seller in connection with this transaction. The provisions of this Section 8.3 shall survive the Closing and any termination of this Agreement and shall not, for avoidance of doubt, be subject to the Liability Floor, Representation Liability Cap or Limitation Date.

8.4. Bulk Sale. Seller and Purchaser acknowledge that they do not intend to comply with and have agreed to waive the provisions of any statutory bulk sale or similar requirements applicable to the transaction to be effected by this Agreement.

8.5. Confidentiality. Except as hereinafter provided, Purchaser and Seller and their Affiliates shall keep the terms, conditions and provisions of this Agreement and all documents or information disclosed to or made available to or discovered by each party in connection with this Agreement (including, without limitation, the Submission Materials) confidential and such information shall be used solely for the purpose of evaluating or effecting the transactions contemplated by this Agreement, and neither Purchaser nor Seller shall make any public announcements hereof unless and until the Closing occurs unless the other first reasonably approves of same in writing, nor shall either disclose (at any time) the terms, conditions and provisions of this Agreement or such other documents or information, except to persons who, in the reasonable business judgment of Seller or Purchaser, as applicable, "need to know" for the purpose of evaluating or effecting the transactions contemplated by this Agreement, and who are instructed to keep such information confidential, such as their respective officers, directors, employees, attorneys, accountants, engineers, surveyors, consultants, financiers, partners, investors, potential lessees and bankers and such other third parties whose assistance is required in connection with the consummation of this transaction (collectively, "Representatives"); provided, however, that information or documents shall not be subject to the provisions of this Section 8.5 if, not otherwise in violation of this Section 8.5, such information or documents, (i) were or become(s) generally available to the public, or (ii) were or become(s) available to Purchaser or its Affiliates on a non-confidential basis from a source other than Seller or its Affiliates or Manager. Upon full execution of this Agreement and if the Closing occurs, the parties may either make a joint press release, or each party may make an individual press release. Notwithstanding the foregoing, it is acknowledged that Seller is, or is an affiliate of, a REIT, and the REIT has and will seek to sell shares to the general public; consequently, Seller shall have the absolute and unbridled right to disclose any information regarding the transaction required by law or as determined to be necessary or appropriate by Seller or Seller's attorneys to satisfy disclosure and reporting obligations of Seller or its Affiliates. Notwithstanding the foregoing, on or at any time, Seller may make a press release or file with the United States Securities Exchange Commission information regarding the Transaction. Seller and Purchaser and their Representatives are cautioned that United States securities laws restrict the purchase and sale of securities by anyone who possesses non-public information about the issue of such securities. Accordingly, neither Purchaser nor any of its Affiliates nor its Representatives may buy or sell any of the securities of the Seller or any of its Affiliates so long as any of them is in possession of any material non-public information about the Seller or any of its Affiliates, including information contained in or derived from confidential information. The terms of this Section 8.5 shall supersede any prior confidentiality agreements executed by Seller, Purchaser, or any of their respective Affiliates, parents, or subsidiaries, to the extent such confidentiality agreements relate or refer, directly or indirectly, to the transactions contemplated by this Agreement. The provisions of this Section 8.5 relating to press releases shall survive the Closing and all the provisions of this Section 8.5 shall survive a termination of this Agreement for a period of two (2) years after such termination; provided, however, that any liabilities or obligations of either Seller, Purchaser or any of their respective Affiliates, parents, or subsidiaries that may have accrued or arisen under any confidentiality agreements prior to the Effective Date shall survive such confidentiality agreements being superseded hereby.

If either Seller or Purchaser or any of their Affiliates or any of their Representatives is required by any subpoena, interrogatories, request for production, or other legal process or by any Applicable Laws to disclose any confidential information, Seller or Purchaser, as applicable, will give the other party prompt written notice of the requirement and will reasonably cooperate (at no cost to such party) with the other party so that the other party, at its expense, may seek an appropriate protective order. In the absence of a protective order, the party required to disclose, including any Representatives, may disclose only such confidential information as may be necessary to avoid any penalty, sanction, or other material adverse consequence, and the party required to disclose will use reasonable efforts to secure confidential treatment of any confidential information so disclosed.

Seller and Purchaser stipulate that the breach of the provisions of this Section 8.5 by the other party or its respective Affiliates or Representatives may cause irreparable harm to the non-breaching party for which damages may not constitute an adequate remedy. Accordingly, the parties agree that any attempted, threatened, or actual breach of the provisions of this Section 8.5 by one party or its Affiliates or Representatives may be enjoined by an appropriate court order or judgment. The parties waive any requirement for the posting of a bond or other security as a condition to such court order or judgment. Injunctive relief will not be the sole remedy of the non-breaching party for a breach of the provisions of this Section 8.5, and all legal and equitable remedies will continue to be available to the non-breaching party. If the non-breaching party is the prevailing party in any litigation relating to the breach of the provisions of this Section 8.5 by the other party or its Affiliates or Representatives, the non-breaching party will be entitled to recover (in addition to any damages or other relief granted) its reasonable legal fees and other expenses in connection with such litigation.

Notwithstanding anything to the contrary set forth herein or in any other agreement to which the parties hereto are parties or by which they are bound, any and all obligations of confidentiality contained herein and therein (the "Confidentiality Obligations"), as they relate to the transactions and events contemplated by this Agreement (collectively, the "Transaction"), shall not apply to the "structure or tax aspects" (as that phrase is used in Section 1.6011-4T(b)(3) [or any successor provision] of the Treasury Regulations [the "Confidentiality Regulation"] promulgated under Section 6011 of the Internal Revenue Code of 1986, as amended) of the Transaction; provided, however, that the Confidentiality Obligations nevertheless shall apply at a given time to any and all items of information not required to be freely disclosable at such time in order for the Transaction not to be treated as "offered under conditions of confidentiality" within the meaning of the Confidentiality Regulation.

8 . 6 . Liquor Licenses. Operating Lessee shall enter into a separate escrow ("Liquor Escrow") with California Business Escrow, Inc., 1748 Main St., Escalon, California 95320; Attn: Diane Boudreau ("Liquor Escrow Holder"), to transfer to Purchaser or the New Permittee (hereinafter defined) California liquor license number 577372, which is the alcoholic beverage license held by Operating Lessee to operate the restaurant, bars and lounges presently located within the Hotel (the "Liquor License"). The purchase price deposited into the Liquor Escrow at Closing shall be the sum of (i) the amount of One Hundred Forty-Five Thousand Dollars (\$145,000.00), which is the amount allocated to the Liquor License, and (ii) the amount allocated to the Alcoholic Beverage Inventory at the Hotel as of the Closing Date as determined pursuant to Section 7.9 hereof ((i) and (ii) collectively, the "Liquor Assets Purchase Price"). That portion of the Liquor Assets Purchase Price allocated to the Liquor License (\$145,000.00) shall be treated as a credit against the Purchase Price and shall not be in addition to the Purchase Price. Seller and Purchaser acknowledge that the terms and conditions of the Liquor Escrow shall be conducted under Sections 24049 and 24074 of the California Business & Professions Code. The Liquor Escrow Holder is hereby authorized and instructed to publish and record all required notices, handle creditor claims, and to obtain tax releases in accordance therewith and to handle funds in the escrow established

for the transfer of the existing Liquor License in accordance with Sections 24049 and 24074 of the California Business and Professions Code. Upon the ABC's approval of the transfer of the Liquor License to Purchaser or New Permittee, the Liquor Assets Purchase Price (less any amounts paid by Liquor Escrow Holder to any bona fide creditors of Operating Lessee in accordance with Applicable Law) shall be delivered by the Liquor Escrow Holder to Operating Lessee. Seller and its Affiliates and Purchaser shall cooperate each with the other, and each shall execute or cause to be executed such transfer forms, license applications and other documents as may be necessary to transfer the Liquor License to Purchaser or the New Permittee. Within five (5) Business Days after the Effective Date or five (5) Business Days after receipt from the Liquor Escrow Holder (whichever is later), Seller shall to deliver to Purchaser fully executed original forms ABC-211A and ABC-227, escrow documents prepared by the Liquor Escrow Holder and reasonably approved by Seller and Purchaser, and any other forms or documents reasonably requested by the ABC or the Liquor Escrow Holder to transfer the Liquor License to Purchaser or New Permittee (collectively, the "Liquor License Transfer Documents"). Promptly upon receipt of the Liquor License Transfer Documents, Purchaser shall cause to be filed with the ABC the requisite application to transfer the Liquor License to Purchaser or New Permittee and for a temporary permit to operate (the "Temporary Permit") to be effective as of the Closing Date. If upon Closing the Temporary Permit has not been issued to Purchaser or New Permittee, despite commercially reasonable good faith efforts by Purchaser, Seller shall (not to include by Seller the expenditure of any money or guaranty of any obligation) cause Operating Lessee to enter into an interim liquor agreement (an "Interim Liquor Agreement"), the form of which is set forth on Exhibit B attached hereto, with Purchaser or Purchaser's designee as may be reasonably necessary for the continuation of the sale and consumption of alcoholic beverages at the Hotel after the Closing and before such time as Purchaser or an Affiliate or designee of Purchaser (the "New Permittee") obtains the Temporary Permit; provided, however, that (i) Purchaser shall indemnify, defend and hold Seller Indemnitees harmless from any liability, damages, costs, expenses or claims encountered in connection with such operations during said period of time, and Purchaser shall procure and pay for liquor liability insurance (in amounts and with deductibles as previously maintained by Seller) naming Purchaser, Seller, and Seller Indemnitees as insureds thereunder, and (ii) the term of the Interim Liquor Agreement shall terminate ninety (90) days after the Closing Date, or earlier, if Purchaser or New Permittee obtains the Temporary Permit at an earlier date. At such time after Closing as the Temporary Permit is obtained, Operating Lessee will convey, at no additional costs, all alcoholic beverages to Purchaser or New Permittee by a conveyance document in form reasonably acceptable to Seller and Purchaser and in accordance with the requirements of the Applicable Laws. This Section 8.6 shall survive the Closing.

8.7. Seller's Accounts Receivable. At Closing, Seller shall assign to Purchaser all of Seller's Accounts Receivable that are sixty (60) days or less aged as of the Closing (the "Assigned Accounts Receivable"), and Purchaser shall purchase the Assigned Accounts Receivable from Seller at 100% of the value thereof. Notwithstanding the foregoing, all of Seller's accounts receivable except for the Assigned Accounts Receivable (the "Retained Accounts Receivable") shall be and remain the property of Seller subsequent to the Closing. After Closing, Purchaser shall (i) reasonably cooperate with Seller in collecting the Retained Accounts Receivable until the expiration of the Post-Closing Adjustment Period, and (ii) hold any such Retained Accounts Receivable received by Purchaser in trust, and shall pay the monies collected in respect thereof to Seller, accompanied by a statement showing the amount collected on each such account. The provisions of this Section 8.7 shall survive the Closing.

8.8. Management Agreement. Within five (5) business days after the Effective Date, Purchaser shall provide to Seller the initial information of Purchaser which Seller is required pursuant to the Management Agreement to provide to Manager relating to the proposed sale of the Property, which Seller shall promptly submit to Manager. At Closing, Purchaser shall, without liability or expense to

Seller, assume the obligations of Seller under the Management Agreement to the extent required under the Management Agreement (provided, however, any such assumption by Purchaser shall not relieve Seller of any Retained Liabilities arising or accruing under the Management Agreement prior to the Closing Date).

8.9. Energy Disclosure. Purchaser acknowledges that Seller may be required to disclose certain information concerning the energy performance of the Hotel pursuant to California Public Resources Code Section 25402.10 and related regulations (collectively, the "Energy Disclosure Requirements"). Purchaser shall obtain its own Data Verification Checklist, as defined in the Energy Disclosure Requirements (collectively, the "Energy Disclosure Information"), and agrees that Seller has timely complied in full with Seller's obligations under the Energy Disclosure Requirements. Purchaser acknowledges and agrees that (i) Seller makes no representation or warranty regarding the energy performance of the Hotel or the accuracy or completeness of the Energy Disclosure Information, (ii) the Energy Disclosure Information is for the current occupancy and use of the Hotel and that the energy performance of the Hotel may vary depending on future occupancy and/or use of the hotel property, and (iii) Seller shall have no liability to Purchaser for any errors or omissions in the Energy Disclosure Information. If and to the extent not prohibited by applicable legal requirements, Purchaser hereby waives any right it may have to receive the Energy Disclosure Information, including, without limitation, any right Purchaser may have to terminate this Agreement or rescind the transactions contemplated by this Agreement as a result of Seller's failure to disclose such information. Purchaser hereby releases Seller from any liability Seller may have to Purchaser relating to the Energy Disclosure Information, including, without limitation, any liability arising as a result of Seller's failure to disclose the Energy Disclosure Information to Purchaser prior to the execution of this Agreement or prior to Closing. Purchaser's approval of the condition of the Hotel pursuant to the terms of this Agreement shall be deemed to include Purchaser's approval of the energy performance of the Hotel and the Energy Performance Information. This paragraph shall survive the Closing and any termination of this Agreement.

8.10. Natural Hazards Disclosure Requirements. Seller, at its sole cost and expense, shall provide Purchaser with a disclosure report issued by an affiliate of the Title Company or by any other vendor selected by Seller (in either case, the "Disclosure Vendor") which is intended to comply with the natural hazard disclosure requirements which may be imposed on Seller pursuant to the Natural Hazard Disclosure Act, California Government Code Sections 8589.3, 8589.4, and 51183.5, and California Public Resources Code Sections 2621.9, 2694, and 4136, and any successor statutes or laws (collectively, the "Act"). Purchaser acknowledges that: (i) Seller will retain the services of Disclosure Vendor to examine the maps and other information made available to the public by government agencies for the purpose of enabling Seller to fulfill its disclosure obligations with respect to the Act, and to prepare the written report of the result of its examination and a natural hazard disclosure statement (collectively, the "Natural Hazard Report"); and (ii) Seller's delivery of a Natural Hazard Report to Purchaser shall be deemed to constitute Seller's full compliance with the Act as it relates to Purchaser or the transaction contemplated by this Agreement.

## **ARTICLE IX.** **DEFAULT; TERMINATION RIGHTS**

### **9.1. Default by Seller/Failure of Conditions Precedent**

(a) Subject to Section 9.1(b), if any condition set forth herein for the benefit of Purchaser cannot or will not be satisfied prior to Closing (unless the failure to satisfy such condition is caused solely by the default of Purchaser under this Agreement), and, if curable, if Seller fails to cure any such matter or satisfy such condition within ten (10) business days after

written notice thereof from Purchaser (or such other time period as may be explicitly provided for herein), (which ten (10) business day or other such time periods shall, if necessary, automatically extend the Closing Date to the expiration date of such ten (10) business day or other such time period) (provided that there shall be no such notice and cure period with respect to Seller's obligation to timely make the Closing deliveries set forth in Article VII or otherwise perform its obligations to be performed on the Closing Date), or upon the occurrence of any other event that would entitle Purchaser to terminate this Agreement and its obligations hereunder, unless otherwise provided for in this Agreement, Purchaser, as its sole and exclusive remedy shall elect either (a) to terminate this Agreement, in which event (i) the Deposit shall be promptly returned to Purchaser and Purchaser shall retain its right to enforce the indemnities and other provisions of this Agreement which expressly survive a termination of this Agreement, and (ii) all other rights and obligations of Seller and Purchaser hereunder (except those set forth herein which expressly survive a termination of this Agreement) shall terminate immediately; or (b) to waive such matter or condition in writing and proceed to Closing with no reduction in the Purchase Price.

(b) Notwithstanding the preceding sentence, if, at the Closing, Seller fails or has failed to comply with any of its obligations contained in this Agreement (a "Seller Default"), which such Seller Default has not been cured within five (5) business days following Purchaser's written notice to Seller of any such Seller Default, Purchaser shall thereafter have the right (provided that Purchaser has not otherwise elected to terminate this Agreement pursuant to clause (c) below), to bring an equitable action to enforce the terms and conditions of this Agreement and cause the consummation of the transactions contemplated herein, provided that Purchaser's suit for specific performance shall be filed against Seller in a court having jurisdiction in the county and state in which the Property is located, on or before sixty (60) days following the Closing Date, failing which, Purchaser shall be barred from enforcing this Agreement by specific performance and shall be deemed to have elected to terminate this Agreement as provided herein.

(c) In the event Purchaser elects to terminate this Agreement, or is deemed to have elected to terminate this Agreement, in accordance with Section 9.1(a) due to the default of Seller hereunder, in addition to the reimbursement of the Deposit to Purchaser, Seller shall also be obligated to reimburse Purchaser for all out-of-pocket expenses reasonably incurred by Purchaser in connection with this Agreement, not to exceed the amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) in the aggregate. Notwithstanding anything contained in this Agreement to the contrary, if Purchaser timely elects to bring an action for specific performance but is precluded from bringing such action, Purchaser shall be entitled to pursue any and all available remedies at law and/or in equity. In the event Purchaser files a suit to enforce the Closing Obligations by specific performance, Seller shall deliver title to the Property in the condition required by this Agreement. The provisions of this Section 9.1 shall survive the termination of this Agreement.

9.2. Default by Purchaser/Failure of Conditions Precedent If any condition to Closing set forth herein for the benefit of Seller (other than as a result of a default by Seller or Purchaser) cannot or will not be satisfied prior to Closing, and if Purchaser fails to satisfy that condition within ten (10) business days after notice thereof from Seller, unless otherwise provided for in this Agreement, Seller, as its sole and exclusive remedy, shall elect either (a) to terminate this Agreement in which event the Deposit shall be promptly returned to Purchaser and the parties hereto shall be released from all further obligations hereunder except those which expressly survive a termination of this Agreement, or (b) to waive its right to terminate, and instead, to proceed to Closing. If Purchaser defaults in performing any of its material obligations under this Agreement, and Purchaser fails to cure any such default within the

earlier of (i) the Closing, or (ii) ten (10) business days after notice thereof from Seller, then Seller's sole remedy for such default shall be to terminate this Agreement and receive the Deposit and to retain its right to enforce the indemnities and other provisions of this Agreement which expressly survive a termination of this Agreement; provided, however, that Purchaser shall not be entitled to any notice and right to cure in the event it wrongfully fails to proceed to Closing as required by this Agreement. Seller and Purchaser agree that, in the event of such a default, the damages that Seller would sustain as a result thereof would be difficult if not impossible to ascertain. Therefore, Seller and Purchaser agree that, Seller shall receive the Deposit and retain the right to enforce the indemnities and other provisions of this Agreement which expressly survive a termination of this Agreement, as full and complete liquidated damages and as Seller's sole remedy. The provisions of this Section 9.2 shall survive the termination of this Agreement.

9.3. Costs and Attorneys' Fees. In the event of any litigation or dispute between the parties arising out of or in any way connected with this Agreement, resulting in any litigation, then the prevailing party in such litigation shall be entitled to recover its costs of prosecuting and/or defending same, including, without limitation, reasonable attorneys' fees at trial and all appellate levels. The provisions of this Section 9.3 shall survive the Closing or any termination of this Agreement.

9.4. Limitation of Liability. Except in connection with a breach of Section 8.5 for which the parties may be liable for consequential damages, the liability of each party hereto resulting from the breach or default by such party shall be limited to direct actual damages incurred by the injured party and each party hereto hereby waives its rights to recover from the other party consequential, punitive, exemplary, and speculative damages. The provisions of this Section 9.4 shall survive the termination of this Agreement. The provisions of this Section 9.4 shall not limit or affect the rights of Seller to receive the Deposit as liquidated damages as and when provided in this Agreement or the rights of Purchaser set forth in Section 9.1.

## ARTICLE X. MISCELLANEOUS PROVISIONS

10.1. Completeness; Modification. This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior discussions, understandings, agreements and negotiations between the parties hereto. This Agreement may be modified only by a written instrument duly executed by the parties hereto.

10.2. Assignments. Other than to an Affiliate of Purchaser, Purchaser may not assign its rights hereunder without the prior consent of Seller; however, any such assignment (including one to Purchaser's Affiliate) shall not relieve Purchaser of its obligations under this Agreement. To be effective hereunder, any assignment by Purchaser hereunder, even one to an Affiliate of Purchaser, must be accompanied by a fully executed and effective assignment and assumption agreement provided to Seller no later than three (3) business days prior to the Closing Date. Notwithstanding any assignment of this Agreement, Purchaser shall not be released from its obligations hereunder, and the assignment and assumption agreement shall include a statement that all representations and warranties of Purchaser in Article IV of this Agreement will be true of such assignee taking assignment of this Agreement as of the date of the Closing.

10.3. Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto and their permitted respective successors and assigns.

10.4. Days. If any action is required to be performed, or if any notice, consent or other communication is given, on a day that is a Saturday or Sunday or a legal holiday in the jurisdiction in

which the action is required to be performed or in which is located the intended recipient of such notice, consent or other communication, such performance shall be deemed to be required, and such notice, consent or other communication shall be deemed to be given, on the first business day following such Saturday, Sunday or legal holiday. Unless otherwise specified herein, all references herein to a "day" or "days" shall refer to calendar days and not business days.

10.5. Governing Law. This Agreement and all documents referred to herein shall be governed by and construed and interpreted in accordance with the laws of the state in which the Property is located without regard to its principles of conflicts of law. This paragraph shall survive the closing or consummation of the conveyance contemplated by this Agreement, and any termination of this Agreement.

10.6. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

10.7. Severability. If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to other persons or circumstances, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

10.8. Costs. Regardless of whether Closing occurs hereunder, and except as otherwise expressly provided herein, each party hereto shall be responsible for its own costs in connection with this Agreement and the transactions contemplated hereby, including, without limitation, fees of attorneys, engineers and accountants.

10.9. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be delivered (i) by hand, (ii) if sent on a business day during the business hours of 9:00 a.m. until 6:00 p.m. Dallas, Texas time, via email with a copy to follow by reputable overnight courier for next-day delivery, (iii) sent prepaid for next-day delivery by Federal Express (or a comparable overnight delivery service) or (iv) sent by the United States mail, certified, postage prepaid, return receipt requested, at the addresses and with such copies as designated below. Any notice, request, demand or other communication delivered or sent in the manner aforesaid may be given by the party required to give such notice, etc., or its attorney, and shall be deemed given or made (as the case may be) when actually delivered to or refused by the intended recipient.

If to Seller: CHH Torrey Pines Hotel Partners, LP  
14185 Dallas Parkway, Suite 1200  
Dallas, Texas 75254  
Attn: Christopher Peckham  
Email: [cpeckham@ashfordinc.com](mailto:cpeckham@ashfordinc.com)

With a copy to: CHH Torrey Pines Hotel Partners, LP  
c/o Park Hotels & Resorts  
1775 Tysons Blvd., 7<sup>th</sup> Floor  
Tysons, VA 22102

Attn: Nancy VU  
Email: nvu@pkhotels and resorts.com

and: Jackson Walker LLP  
2323 Ross Avenue, Suite 600  
Dallas, Texas 75201  
Attn: Cynthia B. Nelson  
Email: cbnelson@jw.com

If to Purchaser: c/o JRK Investors, Inc.  
11766 Wilshire Boulevard, 15th Floor  
Los Angeles, California 90025  
Attn: Daniel Lippman  
Email: dlippman@jrk.com

With a copy to: Gibson, Dunn & Crutcher LLP  
333 South Grand Avenue  
Los Angeles, California 90071  
Attention: Daniel Landy  
Email: DLandy@gibsondunn.com

If to Escrow Agent: Kensington Vanguard National Title  
5949 Sherry Lane, Suite 111  
Dallas, Texas 75225  
Attn: Trey Lentz  
Phone: (214) 273-2514  
Email: TLentz@kvnational.com

or to such other address as the intended recipient may have specified in a notice to the other party. Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party and Escrow Agent in a manner described in this Section.

10.10. Escrow Agent. Escrow Agent referred to in the definition thereof contained in Section 1.1 hereof has agreed to act as such for the convenience of the parties without fee or other charges for such services as Escrow Agent. Escrow Agent shall not be liable: (a) to any of the parties for any act or omission to act except for its own gross negligence or willful misconduct; (b) for any legal effect, insufficiency, or undesirability of any instrument deposited with or delivered by Escrow Agent or exchanged by the parties hereunder, whether or not Escrow Agent prepared such instrument; (c) for any loss or impairment of funds that have been deposited in escrow while those funds are in the course of collection, or while those funds are on deposit in a financial institution, if such loss or impairment results from the failure, insolvency or suspension of a financial institution; (d) for the expiration of any time limit or other consequence of delay, unless a properly executed written instruction, accepted by Escrow Agent, has instructed Escrow Agent to comply with said time limit; (e) for the default, error, action or omission of either party to the escrow. Escrow Agent, in its capacity as escrow agent, shall be entitled to rely on any document or paper received by it, believed by such Escrow Agent, in good faith, to be bona fide and genuine. In the event of any dispute as to the disposition of the Deposit or any other monies held in escrow, or of any documents held in escrow, Escrow Agent may continue to hold the Deposit pursuant to the terms hereof, or if Escrow Agent so elects, interplead the matter at the joint and several cost of Purchaser and Seller by filing an interpleader action in a court of general jurisdiction in the county or

circuit where the Real Property is located (to the jurisdiction of which both parties do hereby consent), and pay into the registry of the court the Deposit, or deposit any such documents with respect to which there is a dispute in the Registry of such court, whereupon such Escrow Agent shall be relieved and released from any further liability as Escrow Agent hereunder. Escrow Agent shall not be liable for Escrow Agent's compliance with any legal process, subpoena, writ, order, judgment and decree of any court, whether issued with or without jurisdiction, and whether or not subsequently vacated, modified, set aside or reversed. Purchaser and Seller agree to jointly and severally indemnify, defend and hold harmless the Escrow Agent from and against any actual loss, out-of-pocket cost or expense, damage (excluding consequential, special or punitive damages), and reasonable attorney's fees (collectively called "Expenses") in connection with or in any way arising out of the escrow arrangement, other than expenses resulting from the Escrow Agent's own gross negligence or willful misconduct. For the purpose of complying with any information reporting requirements or other rules and regulations of the IRS that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement, including, but not limited to, any requirements set forth in Treasury Regulation Section 1.6045-4 and any successor version thereof (collectively, the "IRS Reporting Requirements"), Seller and Purchaser hereby designate and appoint the Escrow Agent to act as the "Reporting Person" (as that term is defined in the IRS Reporting Requirements) to be responsible for complying with any IRS Reporting Requirements. The Escrow Agent hereby acknowledges and accepts such designation and appointment and agrees to fully comply with any IRS Reporting Requirements that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement, and shall file the IRS Form 1099-S regarding the transaction as required pursuant to the Code. Without limiting the responsibility and obligations of the Escrow Agent as the Reporting Person, Seller and Purchaser hereby agree to comply with any provisions of the IRS Reporting Requirements that are not identified therein as the responsibility of the Reporting Person.

10.11. Incorporation by Reference. All of the exhibits and schedules attached hereto are by this reference incorporated herein and made a part hereof.

10.12. Survival; Limitations on Seller Liability. The representations, warranties, indemnities and agreements of Seller set forth in this Agreement and the Closing Documents shall survive for nine (9) months after the Closing (the "Limitation Date"). Seller and Purchaser hereby agree that, notwithstanding any provision of this Agreement or any provision of law to the contrary, any action which may be brought for the untruth or inaccuracy of any representation or warranty by Seller or any indemnity or other obligation of Seller in this Agreement or in any of the Closing Documents (a "Claim") shall be deemed waived by the Purchaser hereunder unless, Purchaser (a) no later than the expiration of the Limitation Date, delivers to Seller a written notice of the Claim setting forth the basis for such Claim, and (b) within thirty (30) days following the Limitation Date, files a complaint or petition against Seller alleging such Claim in an appropriate Federal district or state court and serves the same upon Seller, in which case the Limitation Date, as to such breach, shall be extended pending resolution of such complaint or petition. Notwithstanding anything to the contrary contained in this Agreement, any Claim that Purchaser may have at any time against Seller will not be valid or effective, and Seller shall have no liability with respect thereto, unless any one or more such Claims exceed, in the aggregate, Twenty-Five Thousand and No/100 Dollars (\$25,000.00)(the "Liability Floor") (provided that if such Claims exceed the Liability Floor, Purchaser shall be entitled to seek recovery from the first dollar of loss) and Seller's liability for damages resulting from all Claims shall in no event exceed two percent (2%) of the Purchase Price in the aggregate (the "Representation Liability Cap"). In addition, Seller shall have no liability with respect to any of Seller's representations, warranties and covenants herein or in any document executed and delivered by Seller to Purchaser in connection with the consummation of the transaction contemplated hereby, if, prior to the Closing Date, Purchaser has actual knowledge of any breach of a representation, warranty or

covenant of Seller herein or in any document executed and delivered by Seller to Purchaser in connection with the consummation of the transaction contemplated hereby, or Purchaser obtains knowledge (from whatever source, including, without limitation, any Submission Materials or as a result of Buyer's due diligence that contradicts any of Seller's representations and warranties herein or in any document executed and delivered by Seller to Purchaser in connection with the consummation of the transaction contemplated hereby or evidences such a breach, and Purchaser nevertheless consummates the transaction contemplated by this Agreement.

10.13. Further Assurances. Seller and Purchaser each covenant and agree to sign, execute and deliver, or cause to be signed, executed and delivered, and to do or make, or cause to be done or made, upon the written request of the other party, any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, as may be reasonably required by either party hereto for the purpose of or in connection with consummating the transactions described herein provided that compliance with the provision of this Section 10.13 shall not increase the liability of the complying party.

10.14. No Partnership. This Agreement does not and shall not be construed to create a partnership, joint venture or any other relationship between the parties hereto except the relationship of seller and purchaser specifically established hereby.

10.15. Time of Essence. Time is of the essence with respect to every provision hereof.

10.16. Signatory Exculpation. The signatory(ies) for Purchaser and Seller is/are executing this Agreement in his/their capacity as representative of such party and not individually and, therefore, shall have no personal or individual liability of any kind in connection with this Agreement and the transactions contemplated by it.

10.17. Rules of Construction. The following rules shall apply to the construction and interpretation of this Agreement, unless otherwise indicated by the context:

(a) Singular words shall connote the plural number as well as the singular and vice versa, and the masculine shall include the feminine and the neuter.

(b) All references herein to particular articles, sections, subsections, clauses or exhibits are references to articles, sections, subsections, clauses or exhibits of this Agreement.

(c) The table of contents and headings contained herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

(d) Each party hereto and its counsel have reviewed and revised (or requested revisions of) this Agreement and have participated in the preparation of this Agreement, and therefore any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement or any exhibits hereto.

10.18. No Recording. Neither this Agreement nor any memorandum hereof, or any other instrument intended to give notice hereof (or which actually gives notice hereof) shall be recorded.

10.19. Waiver of Jury Trial. **SELLER AND PURCHASER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST ANOTHER PARTY ON ANY MATTER ARISING OUT OF OR IN ANY WAY**

**CONNECTED WITH THIS AGREEMENT. THE PROVISIONS OF THIS SECTION 10.19 SHALL SURVIVE THE CLOSING OR ANY TERMINATION OF THIS AGREEMENT WITHOUT LIMITATION.**

**10.20. Judicial Reference.**

(a) Purchaser and Seller agree that any controversy, dispute or claim (each, a "Dispute") between the parties arising out of or relating to this Agreement will be resolved by a reference proceeding in California in accordance with the provisions of Section 638 et seq. of the California Code of Civil Procedure ("CCP"), or their successor sections, which shall constitute the exclusive remedy for the resolution of any Dispute, including whether the Dispute is subject to the reference proceeding. Venue for the reference proceeding will be in the Superior Court or Federal District Court in San Diego County, California (the "Court").

(b) The referee shall be a retired Judge or Justice selected by mutual written agreement of the parties. If the parties do not agree, the referee shall be selected by the Presiding Judge of the Court (or his or her representative). A request for appointment of a referee may be heard on an ex parte or expedited basis, and the parties agree that irreparable harm would result if ex parte relief is not granted. The referee shall be appointed to sit with all the powers provided by law. Pending appointment of the referee, the Court has power to issue temporary or provisional remedies.

(c) The parties agree that time is of the essence in conducting the reference proceedings. Accordingly, the referee shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within forty-five (45) days after the date of selection of the referee, (ii) if practicable, try all issues of law or fact within one hundred twenty (120) days after the date of the conference and (iii) report a statement of decision within twenty (20) days after the matter has been submitted for decision.

(d) The referee will have power to expand or limit the amount and duration of discovery. The referee may set or extend discovery deadlines or cutoffs for good cause, including a party's failure to provide requested discovery for any reason whatsoever. Unless otherwise ordered based upon good cause shown, no party shall be entitled to "priority" in conducting discovery, depositions may be taken by either party upon ten (10) days written notice, and all other discovery shall be responded to within twenty (20) days after service. All disputes relating to discovery which cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding.

(e) Except as expressly set forth in this Agreement, the referee shall determine the manner in which the reference proceeding is conducted including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee, and the referee will be provided a courtesy copy of the transcript. The party making such a request shall have the obligation to arrange for and pay the court reporter. Subject to the referee's power to award costs to the prevailing party, the parties will equally share the cost of the referee and the court reporter at trial.

(f) The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision pursuant to CCP Section 644, and the referee's decision shall be entered by the Court as a judgment or an order in the same manner as if the action had been tried by the Court. The final judgment or order or from any appealable decision or order entered by the referee shall be fully appealable as provided by law. The parties reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.

(g) If the enabling legislation which provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or Justice, in accordance with the California Arbitration Act Section 1280 through Section 1294.2 of the CCP as amended from time to time. The limitations with respect to discovery set forth above shall apply to any such arbitration proceeding.

The provisions of this Section 10.20 shall survive Closing or any early termination of this Agreement.

10.21. Electronic Signatures. The execution of this Agreement and all notices given hereunder and all amendments hereto, may be effected by electronic signatures, all of which shall be treated as originals.

10.22. Multiple Sellers. This Agreement shall be terminable by either Seller or Purchaser prior to the Effective Date. The "Effective Date" shall mean the first date on which the following shall have occurred: (i) Purchaser and Seller shall have executed this Agreement, and (ii) Escrow Agent shall have acknowledged receipt of this Agreement fully executed by Seller and Purchaser.

10.23. Exclusivity. From and after the Effective Date through the Closing (unless earlier terminated as expressly set forth and provided herein), neither Seller nor its Affiliates or their respective directors, officers, employers, members, partners or agents (including Broker) shall solicit, negotiate or otherwise accept (in writing or otherwise) any offers for the purchase or lease of the Property (or any interest therein) from any Persons.

10.24. Survival. The provisions of this Article X shall survive Closing. Unless otherwise expressly provided in this Agreement and except as expressly provided in Section 10.12 hereof, all of the representations and warranties and covenants of the parties contained in this Agreement shall not survive the Closing and shall merge into the Closing Documents. Upon Closing, any breach or default of any such representations or warranties or covenants that do not expressly survive the Closing, whether known or unknown, shall be deemed waived by the Closing.

***[Remainder of this page left blank intentionally; signature pages follow]***

IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be executed in their names by their respective duly authorized representatives.

**GROUND LESSEE:**

CHH Torrey Pines Hotel Partners, LP,  
a Delaware limited liability company

By: CHH Torrey Pines Hotel GP LLC,  
a Delaware limited liability company,  
its general partner

By: /s/ Richard Stockton  
Name: Richard Stockton  
Title: President  
Date: May 3, 2024

**OPERATING LESSEE:**

CHH Torrey Pines Tenant Corp.,  
a Delaware corporation

By: Deric Eubanks  
Name: Deric Eubanks  
Title: President  
Date: May 3, 2024

**PURCHASER:**

JRK Torrey Pines Hotel Owner LLC,  
a Delaware limited liability company

By: /s/ Daniel Lippman  
Name: Daniel Lippman  
Title: President  
Date: May 6, 2024

**ESCROW AGENT:**

Kensington Vanguard National Title (Escrow Agent hereby acknowledges receipt of a fully executed Agreement from both Seller and Purchaser for purposes of Section 10.22 hereof.)

By:  
Name:  
Title:  
Date:

### **GUARANTOR JOINDER**

Braemar Hospitality Limited Partnership, a Delaware limited partnership ("Guarantor"), hereby joins in the execution of this Agreement for the purposes of agreeing to guaranty (subject to the Representation Liability Cap, if applicable) all of Seller's liability under this Agreement. The obligations of Guarantor hereunder shall remain in full force and effect without regard to, and shall not be affected or impaired by, the following: (A) any bankruptcy, insolvency or dissolution of the Seller, (B) any modification or amendment to this Agreement or other documents relating thereto made with the approval Seller and whether or not Guarantor shall have received any notice of or consented to any such modification or amendment, (C) the granting of forbearances, compromises or adjustments with respect to any covenant or agreement under this Agreement or claims thereunder if Seller consents and agrees to the same, or (D) any and all suretyship defenses. This joinder shall survive the Closing until the Limitation Date (as such date is subject to extension in accordance with this Agreement).

### **GUARANTOR:**

Braemar Hospitality Limited Partnership,  
a Delaware limited partnership

By: Braemar OP General Partner LLC,  
a Delaware limited liability company,  
its general partner

By: /s/ Richard Stockton  
Name: Richard Stockton  
Title: CEO  
Date: May 3, 3034

Exhibits:

- A – Ground Leased Property
- B – Form of Interim Liquor Agreement
- C – Form of Ground Lease Assignment
- D – Form of Bill of Sale
- E – Form of Assignment and Assumption Agreement
- F – Form of Assignment of Occupancy Agreements
- G – Form of FIRPTA Certificate
- H – Assignment and Assumption of Management Agreement
- I – Form of Owner's Affidavit
- J – Seller's Closing Certificate
- K – Purchaser's Closing Certificate

Schedules:

- 1 – Closing Cost Allocations
- 3.8 – Occupancy Agreements
- 3.13 – Litigation
- 3.15 – Taxes
- 3.16 – Operating Agreements; Leased Property Agreements
- 3.17 – Authorizations

**RECEIPT OF ESCROW AGENT**

Kensington Vanguard National Title, as Escrow Agent, acknowledges receipt of the sum of \$[\_\_\_\_\_] by wire transfer from Purchaser as described in Section 2.3 of the Agreement, said wire transfer to be held pursuant to the terms and provisions of the Agreement.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2024.

Kensington Vanguard National Title

By:  
Name:  
Title:  
Date:

Receipt of Escrow Agent

---

EXHIBIT A

LAND

Seller's leasehold estate created by the Ground Lease in the below described real property:

ALL THOSE PORTIONS OF PUEBLO LOTS 1325, 1326, 1330 AND 1331 OF THE PUEBLO LANDS OF SAN DIEGO IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF BY JAMES PASCOE, IN 1870, A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921 AS MISCELLANEOUS MAP 36, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PUEBLO LOT 1325, WHICH IS THE COMMON CORNER OF PUEBLO LOTS 1325, 1326, 1330 AND 1331; THENCE ALONG THE COMMON LINE OF PUEBLO LOTS 1325 AND 1331 NORTH 89°05'90" WEST, 255.74 FEET; THENCE LEAVING SAID COMMON LINE NORTH 2°48'32" WEST 285.07 FEET; THENCE NORTH 7°31'23" WEST, 399.47 FEET; THENCE NORTH 6°28'50" WEST, 134.23 FEET TO A POINT THAT BEARS SOUTH 82°32'25" WEST 42.90 FEET FROM THE SOUTHWEST CORNER OF THE PROPERTY DESCRIBED IN THAT CERTAIN LEASE AGREEMENT EXECUTED OCTOBER 2, 1961, FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN DIEGO AS DOCUMENT NO. 629873, OFFICIAL RECORDS, THE BOUNDARIES OF WHICH ARE SET OUT ON CITY ENGINEER'S DRAWING 13929-CL ON FILE IN THE OFFICE OF THE CITY ENGINEER OF THE CITY OF SAN DIEGO; THENCE NORTH 82°32'25" EAST 42.90 FEET TO SAID SOUTHWEST CORNER; THENCE CONTINUING ALONG THE SOUTH LINE OF SAID PROPERTY DESCRIBED IN SAID LEASE AGREEMENT NORTH 82°32'25" EAST TO THE SOUTHEAST CORNER OF LAST SAID PROPERTY; SAID POINT ALSO BEING A POINT IN THE WESTERLY RIGHT OF WAY LINE OF TORREY PINES ROAD, AS DEDICATED BY CITY OF SAN DIEGO ORDINANCE 7634 DATED MARCH 24, 1919; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE SOUTH 9°28'56" EAST 842.58 FEET TO A POINT "A"; THENCE SOUTH 80°31'04" WEST 368.36 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED LAND IS NOW COMMONLY KNOWN AS:

LOT 1 OF SHERATON HOTEL AT TORREY PINES UNIT NO. 2, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 12164, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 12, 1988.

**EXHIBIT B**

**FORM OF INTERIM LIQUOR AGREEMENT**

**INTERIM MANAGEMENT AGREEMENT**

This INTERIM MANAGEMENT AGREEMENT (this "**Agreement**") is entered into as of \_\_\_\_\_, 2024, by and between JRK TORREY PINES HOTEL OWNER, LLC, a Delaware limited liability company ("**Owner**"), and CHH TORREY PINES TENANT CORP., a Delaware corporation ("**Manager**").

**RECITALS:**

A. Owner has acquired the hotel commonly known as the Hilton La Jolla Torrey Pines, 10950 North Torrey Pines Road, La Jolla, CA 92037 (the "**Hotel**").

B. Manager holds liquor license no. 577372 (the "**Liquor License**") issued by the California Department of Alcoholic Beverage Control ("**ABC**") for the sale of alcoholic beverages at the Hotel.

C. Owner has submitted an application to the ABC to transfer the Liquor License to Owner and for a temporary permit to operate (the "**Temporary Permit**") pending the approval of such transfer, but as of the date hereof, the Temporary Permit has not yet been issued.

D. Manager has agreed to oversee and manage the food and beverage services at those portions of the Hotel at which alcoholic beverages are served pending the issuance of the Temporary Permit on the terms set forth below.

NOW THEREFORE, in consideration of the mutual agreements, promises and covenants contained herein; and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged by all parties hereto, it is hereby agreed to as follows:

1. Appointment of Manager. Owner hereby appoints Manager to oversee and manage the purchase, service and sale of food and alcoholic beverages at the Hotel (the "**F&B Operations**"), and Manager accepts such appointment.

2. Term. The term of this Agreement (the "**Term**") shall commence on the date hereof and shall terminate on the first to occur of (i) the date of issuance by the ABC to Owner of the Temporary Permit; (ii) the date ninety (90) days from and after the date hereof; (iii) the issuance of any ruling or order by any court of competent jurisdiction or other governmental authority that the Liquor License shall not be transferred to Owner, the Liquor License is revoked, or this Agreement is prohibited under applicable laws; (iv) the failure by Owner to cure any default within fifteen (15) days after receipt of written notice from Manager, or if such default cannot be cured within fifteen (15) days, the failure by Owner to commence to cure such default within such fifteen (15) day period or diligently pursue such cure to completion; or (v) any attempt by Owner to assign its rights or delete its obligations under this Agreement without the prior written consent of Manager.

3. Management Fee.

(a) All revenue from the sale of food and beverages shall be deposited into the Hotel's operating account. Manager shall be entitled to retain, as its management fees, an amount equal to all Net Profits (as hereinafter defined) from the sale and service of alcoholic beverages at the Hotel during the Term. Manager shall pay to Owner a fee equal to the Operating Expenses (as hereinafter defined) incurred by Owner in connection with the operation of the Hotel (prorated for each partial month), as reasonably determined by Owner, payable in arrears on the fifteenth (15th) day of each month with respect to the previous month; provided, however, that such fee shall not exceed the Net Profits retained by Manager for the applicable month. Any shortfall in the monthly fee may be made up out of any excess Net Profits in any subsequent month. Manager shall not have any responsibility to pay Owner any such unpaid shortfall to Owner upon the termination of this Agreement.

(b) For purposes of this Agreement, "Net Profits" shall be defined as total gross receipts attributable to the sale and service of alcoholic beverages on the Hotel ("Gross Receipts"), less all Operating Expenses. "Operating Expenses" shall be defined as all costs and expenses allocated to the purchase, sale and service of food and alcoholic beverages on the Hotel, including, without limitation, (i) employee salaries, other compensation and benefits, (ii) payments under equipment leases, (iii) costs incurred to purchase food and alcoholic beverages for service or sale, (iv) any applicable state and federal taxes, including sales taxes. Net Profits, Gross Receipts and Operating Expenses shall be determined by Owner's books and records. Manager shall have the right, upon not less than fifteen (15) days' notice to Owner, to inspect such books and records in the office in which they are customarily maintained.

4. Purchase of Alcoholic Beverages. All alcoholic beverages to be purchased for service or sale at the Hotel shall be purchased by Manager from distributors and other suppliers in the name of Manager, unless under applicable law (i) Owner is permitted to purchase such alcoholic beverages in its name and (ii) and such alcoholic beverages are permitted to be sold by Manager under the Liquor License. Owner shall reimburse Manager immediately for the amount incurred by Manager for the purchase of such alcoholic beverages, and all other amounts incurred by Manager in connection with such purchase.

5. Employees. All persons involved in the purchase, service and sale of alcoholic beverages at the Hotel shall be employees of Owner or its designee, and Owner shall be responsible for the payment of all salaries, wages, employment taxes and all other employee benefits for such employees, which shall be an Operating Expense. Manager shall have the right to oversee such employees in connection with the purchase, service and sale of alcoholic beverages.

6. Transfer of the Liquor License. Owner, at its cost and expense, shall pursue the transfer of the Liquor License as promptly as reasonably practicable. Manager shall cooperate in all reasonable respects with Owner for Owner to obtain a transfer of the Liquor License without interruption to the alcoholic beverage operations at the Hotel. Manager shall provide such information and execute such documentation as the ABC may reasonably require in connection with the transfer of the Liquor License.

7. Books, Accounts and Records. Throughout the Term, Owner, on behalf of Manager, shall cause to be maintained complete and accurate books and records relating to the sale of food and alcoholic beverages at the Hotel. During the Term, Owner, on behalf of Manager, shall prepare and file with the California Department of Tax and Fee Administration all required sales tax reports, and remit the sales tax due in connection with the operation of the Hotel, for each month or partial month during the Term of this Agreement.

8. Assignment. Neither Owner nor Manager shall assign this Agreement or any interest therein or any obligations thereunder, except upon the prior written consent of the other party hereto, which may be withheld for any reason.

9. Alterations/Improvements. No alterations or improvements shall be made to any portion of the Hotel without the prior written consent of Owner. Owner shall be responsible to maintain the portions of the Hotel in which Manager operates, and all equipment therein, during the Term of this Agreement.

10. Compliance with Law. Manager shall comply with all governmental laws, ordinances, rules and regulations applicable to the sale and service of alcoholic beverages and shall, at all times during the term of this Agreement keep in full force and effect Manager's Liquor License. Owner and Manager shall, at all times, cooperate with one another and with any and all departments or agencies which issue, or otherwise have jurisdiction over, Manager's Liquor License, in connection with said compliance. Further, Manager will not alter the nature of the liquor service operations conducted on the Hotel from that which has been in place during Manager's prior operation of the Hotel without the prior written consent of Owner.

11. Insurance. Owner shall cause to be maintained in force and effect at all times during the Term, commercial general liability insurance coverage and dram shop insurance coverage, both in amounts equal to or greater than the amount carried by Manager prior to the date of this Agreement, workmen's compensation insurance, and such other insurance coverages as are required by any governmental authority from time to time. Such policies shall be on an "occurrence" basis and maintained with insurance companies acceptable to Manager and shall name Manager and its affiliated entities as an additional insured. On or before the effective date of this Agreement, Owner shall deliver to Manager a certificate of insurance evidencing such policy, which certificate shall confirm that such insurance may not be modified or canceled without thirty (30) days prior written notice to Manager. This Section 11 shall survive the expiration or termination of this Agreement.

12. Waiver of Default. No waiver by the parties hereto or any default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

13. Captions. The captions or headings of paragraphs in this Agreement are inserted for convenience only, and shall not be considered in construing the provision hereof if any question of intent should arise.

14. Successors. The terms, conditions and covenants contained in this Agreement shall apply to, and inure to the benefit of, and be binding upon, the parties hereto and their respective successors-in-interest and legal representatives except as otherwise expressly provided herein.

15. Indemnification and Hold Harmless. Owner hereby releases Manager and its respective affiliated entities, and each of their respective shareholders, members, partners, trustees, beneficiaries, directors, officers, employees and agents, and the successors, assigns, heirs and legal representatives of each of the foregoing (the "Manager Indemnitees"), for any liability, damage, loss, cost or expense incurred by Owner or the Manager Indemnities except to the extent caused by the willful misconduct and gross negligence of Manager, its agents or employees. Owner hereby agrees to indemnify, defend and hold the Manager Indemnitees harmless from and against any and all claims, losses, causes of action, costs and expenses (including but not limited to reasonable attorneys' fees incurred in enforcing the terms of this Paragraph), damages, penalties, fines or liability incurred or arising out of, or connected to, this Agreement.

16. Counterparts; Electronic Delivery. This Agreement may be executed in counterparts, each of which, when combined together, shall constitute one and the same agreement. Duly executed counterparts delivered via email or other electronic method shall have the same force and effect as signed originals for all purposes.

17. Entire Agreement. This Agreement constitutes the entire Agreement between the parties hereto and supersedes and terminates all prior oral and written agreements and understandings among the parties. No amendment, alteration, modification of, or addition to this Agreement will be valid and binding unless expressed in writing and signed by the parties hereto.

18. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be delivered (i) by hand, (ii) if sent on a business day during the business hours of 9:00 a.m. until 6:00 p.m. Dallas, Texas time, via email with a copy to follow by reputable overnight courier for next-day delivery, (iii) sent prepaid for next-day delivery by Federal Express (or a comparable overnight delivery service) or (iv) sent by the United States mail, certified, postage prepaid, return receipt requested, at the addresses and with such copies as designated below. Any notice, request, demand or other communication delivered or sent in the manner aforesaid may be given by the party required to give such notice, etc., or its attorney, and shall be deemed given or made (as the case may be) when actually delivered to or refused by the intended recipient.

If to Manager: CHH Torrey Pines Tenant Corp.  
14185 Dallas Parkway, Suite 1200  
Dallas, Texas 75254  
Attn: Christopher Peckham  
Email: cpeckham@ashfordinc.com

With a copy to: CHH Torrey Pines Hotel Partners, LP

c/o Park Hotels & Resorts  
1775 Tysons Blvd., 7<sup>th</sup> Floor  
Tysons, VA 22102  
Attn: Nancy VU  
Email: nvu@pkhotels and resorts.com

and:            Jackson Walker LLP  
                  2323 Ross Avenue, Suite 600  
                  Dallas, Texas 75201  
                  Attn: Cynthia B. Nelson  
                  Email: cbnelson@jw.com

If to Owner:    c/o JRK Investors, Inc.  
                  11766 Wilshire Boulevard, 15th Floor  
                  Los Angeles, California 90025  
                  Attn: Daniel Lippman  
                  Email: dlippman@jrk.com

With a copy to: Gibson, Dunn & Crutcher LLP  
                  333 South Grand Avenue  
                  Los Angeles, California 90071  
                  Attention: Daniel Landy  
                  Email: DLandy@gibsondunn.com

or to such other address as the intended recipient may have specified in a notice to the other party. Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party in a manner described in this Section.

**1 9 . Waiver of Jury Trial. OWNER AND MANAGER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST ANOTHER PARTY ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT. THE PROVISIONS OF THIS SECTION 19 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT WITHOUT LIMITATION.**

**20. Prevailing Party.** In the event of any dispute between Owner and Manager arising out of the obligations of the parties under this Agreement or concerning the meaning or interpretation of any provision contained herein, the non-prevailing party shall pay the prevailing party's costs and expenses of such dispute, including, without limitation, reasonable attorneys' fees and costs.

**21 . Conflicts.** Nothing herein contained shall itself change, amend, extend or alter (nor shall it be deemed or construed as changing, amending, extending or altering) the terms or conditions of that certain Agreement of Purchase and Sale, dated as of [\_\_\_\_], by and among

CHH Torrey Pines Hotel Partners, LP, a Delaware limited partnership, Manager, and Owner (the "**Purchase Agreement**"), in any manner whatsoever. In the event of any conflict or other difference between the Purchase Agreement and this Agreement, the provisions of the Purchase Agreement shall control, including but not limited to Section 10.12 of the Purchase Agreement.

22. Severability. If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to other persons or circumstances, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

23. Governing Law. This Agreement and all documents referred to herein shall be governed by and construed and interpreted in accordance with the laws of the state of California without regard to its principles of conflicts of law. This paragraph shall survive any termination of this Agreement.

[Signatures appear on the following page]

**SIGNATURE PAGE TO INTERIM MANAGEMENT AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

OWNER:

JRK TORREY PINES HOTEL OWNER, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

MANAGER:

CHH TORREY PINES TENANT CORP.,  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT C**

**FORM OF GROUND LEASE ASSIGNMENT**

**ASSIGNMENT AND ASSUMPTION OF GROUND LEASE**

THIS ASSIGNMENT AND ASSUMPTION OF GROUND LEASE (the "Assignment") dated \_\_\_\_\_, 2024 (the "Assignment Date"), is between \_\_\_\_\_, a \_\_\_\_\_ ("Assignor"), and \_\_\_\_\_, a \_\_\_\_\_ ("Assignee"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the "Purchase Agreement" (as defined below).

**RECITALS**

A. Assignor, as lessee, and The City of San Diego, as lessor, are parties to that certain Percentage Lease dated August 10, 1987, a memorandum of which was recorded on August 10, 1987 as Document No. RR-269077-1 with the Office of the City Clerk of San Diego, California, as assigned pursuant to the Assignment and Assumption of Percentage Lease and Deed to Improvements dated and recorded on December 29, 1998 as Document No. 1998-0853813 with the San Diego County Recorder's Office, as amended by the First Amendment to Lease Agreement recorded on May 21, 2002 as Document No. RR-296517 with the Office of the City Clerk of San Diego, California, as further assigned pursuant to the Assignment and Assumption of Percentage Lease and Deed to Improvements dated December 17, 2003 and recorded on December 18, 2003 as Instrument No. 2003-1487568 in the Office of the City Clerk of San Diego, California, and as further amended by the Second Amendment to Lease Agreement recorded on May 23, 2017 as Document No. RR- 311148 in the Office of the City Clerk of San Diego, California, and as further amended by the Third Amendment to Percentage Lease dated May 21, 2019 (as amended to date, the "Lease"), and executed with respect to a portion of certain real property and improvements thereon located at 10950 North Torrey Pines Road, La Jolla, CA 92037, commonly known as "Hilton La Jolla Torrey Pines" and more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property").

B. Assignor and Assignee are the current parties under that certain Agreement of Purchase and Sale, dated \_\_\_\_\_, by and between Assignor and Assignee (as amended and assigned, the "Purchase Agreement"), pursuant to which Assignee agreed to purchase the Property from Assignor and Assignor agreed to sell the Property to Assignee, on the terms and conditions contained therein, and Assignee has acquired the Property from Assignor on the Assignment Date.

C. Assignor desires to assign its interest as lessee in the Lease to Assignee, and Assignee desires to accept the assignment thereof, on the terms and conditions below.

**AGREEMENT**

In consideration of the acquisition of the Property by Assignee and other good and valuable consideration, the mutual receipt and legal sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignor hereby assigns to Assignee all of its right, title, and interest in and to the Lease, and Assignee hereby accepts such assignment and assumes all of the lessee's obligations under the Lease first arising from and after the date hereof.

2. In the event of any dispute between Assignor and Assignee arising out of the obligations of the parties under this Assignment or concerning the meaning or interpretation of any provision contained herein, the non-prevailing party shall pay the prevailing party's costs and expenses of such dispute, including, without limitation, reasonable attorneys' fees and costs.

3. Any rental and other payments under the Lease shall be prorated between the parties as provided in the Purchase Agreement.

4. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. This Assignment shall be governed and construed in accordance with the laws of the State of California.

6. This Assignment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

7. Nothing herein contained shall itself change, amend, extend or alter (nor shall it be deemed or construed as changing, amending, extending or altering) the terms or conditions of the Purchase Agreement in any manner whatsoever. In the event of any conflict or other difference between the Purchase Agreement and this Assignment, the provisions of the Purchase Agreement shall control.

8. Any dispute, claim or controversy arising out of or in connection with this Assignment shall be resolved in accordance with the provisions of Section 10.5 of the Purchase Agreement, which Section is hereby incorporated by reference into this Assignment.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

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**IN WITNESS WHEREOF**, the parties hereto have caused this Assignment to be executed by their duly authorized representatives on the date first above written.

**ASSIGNOR:**

a \_\_\_\_\_;

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF \_\_\_\_\_ )

)

) ss.

**COUNTY OF**

1

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Seal)

## Notary Public

**IN WITNESS WHEREOF**, the parties hereto have caused this Assignment to be executed by their duly authorized representatives on the date first above written.

**ASSIGNEE:**

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Los Angeles )

On \_\_\_\_\_, before me, \_\_\_,  
(insert name of notary)  
Notary Public, personally appeared \_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature\_\_ (Seal)

**EXHIBIT A**

**PROPERTY DESCRIPTION**

ALL THOSE PORTIONS OF PUEBLO LOTS 1325, 1326, 1330 AND 1331 OF THE PUEBLO LANDS OF SAN DIEGO IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF BY JAMES PASCOE, IN 1870, A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921 AS MISCELLANEOUS MAP 36, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PUEBLO LOT 1325, WHICH IS THE COMMON CORNER OF PUEBLO LOTS 1325, 1326, 1330 AND 1331; THENCE ALONG THE COMMON LINE OF PUEBLO LOTS 1325 AND 1331 NORTH 89°05'90" WEST, 255.74 FEET; THENCE LEAVING SAID COMMON LINE NORTH 2°48'32" WEST 285.07 FEET; THENCE NORTH 7°31'23" WEST, 399.47 FEET; THENCE NORTH 6°28'50" WEST, 134.23 FEET TO A POINT THAT BEARS SOUTH 82°32'25" WEST 42.90 FEET FROM THE SOUTHWEST CORNER OF THE PROPERTY DESCRIBED IN THAT CERTAIN LEASE AGREEMENT EXECUTED OCTOBER 2, 1961, FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN DIEGO AS DOCUMENT NO. 629873, OFFICIAL RECORDS, THE BOUNDARIES OF WHICH ARE SET OUT ON CITY ENGINEER'S DRAWING 13929-CL ON FILE IN THE OFFICE OF THE CITY ENGINEER OF THE CITY OF SAN DIEGO; THENCE NORTH 82°32'25" EAST 42.90 FEET TO SAID SOUTHWEST CORNER; THENCE CONTINUING ALONG THE SOUTH LINE OF SAID PROPERTY DESCRIBED IN SAID LEASE AGREEMENT NORTH 82°32'25" EAST TO THE SOUTHEAST CORNER OF LAST SAID PROPERTY; SAID POINT ALSO BEING A POINT IN THE WESTERLY RIGHT OF WAY LINE OF TORREY PINES ROAD, AS DEDICATED BY CITY OF SAN DIEGO ORDINANCE 7634 DATED MARCH 24, 1919; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE SOUTH 9°28'56" EAST 842.58 FEET TO A POINT "A"; THENCE SOUTH 80°31'04" WEST 368.36 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED LAND IS NOW COMMONLY KNOWN AS:

LOT 1 OF SHERATON HOTEL AT TORREY PINES UNIT NO. 2, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 12164, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 12, 1988.

**EXHIBIT D**

**SPECIAL WARRANTY BILL OF SALE**

For Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, \_\_\_\_\_ ("Ground Lessee") and \_\_\_\_\_ ("Operating Lessee", and together with Ground Lessee, "Seller"), each hereby conveys to \_\_\_\_\_ ("Purchaser") all of its respective right, title and interest in and to the following (collectively, the "Personal Property"):

- (i) all items of Tangible Personal Property (as defined in that certain Agreement of Purchase and Sale dated \_\_\_\_\_, 20\_\_\_\_ by and between Seller and Purchaser (the "Agreement")), except any Tangible Personal Property leased by Ground Lessee or Operating Lessee;
- (ii) to the extent transferable, all of the Intangible Personal Property (as defined in the Agreement);
- (iii) all subsisting and assignable warranties and guaranties relating to the improvements located at the Property (as defined in the Agreement) or the Tangible Personal Property or any part thereof; and

IN WITNESS WHEREOF, Ground Lessee and Operating Lessee have executed this Bill of Sale effective as of \_\_\_\_\_, 20\_\_\_\_.

**SELLER:**

**GROUND LESSEE:**

---

By:  
Name:  
Title:

**OPERATING LESSEE:**

---

By:  
Name:  
Title:

**EXHIBIT E**

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

For Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, \_\_\_\_\_ ("Ground Lessee") and \_\_\_\_\_ ("Operating Lessee", and together with Ground Lessee, "Seller"), hereby assign and delegate to \_\_\_\_\_ ("Assignee") all of their respective right, title and interest in and to the following:

- (i) all Operating Agreements (as defined in that certain Agreement of Purchase and Sale dated \_\_\_\_\_, 20\_\_\_\_ by and between Seller and Purchaser (the "Agreement")) with respect to the Property (as defined in the Agreement); and
- (ii) all Leased Property Agreements (as defined in the Agreement);

Assignee hereby assumes and agrees to perform all of the obligations of Seller under the Operating Agreements and Leased Property Agreements (collectively the "Assigned Agreements"), to the extent any such obligations accrue and are applicable to periods from and after the date hereof or which accrue prior to the date hereof for which Assignee received a credit on the closing statement of even date herewith between the parties (or pursuant to any post-closing adjustment thereof).

If any litigation between Seller and Assignee arises out of the obligations of the parties under this Assignment and Assumption Agreement or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's costs and expenses of such litigation including, without limitation, reasonable attorneys' fees. The provisions of Section 10.12 of the Agreement shall apply, *mutatis mutandis*, to this Assignment and Assumption Agreement.

This Assignment and Assumption Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

IN WITNESS WHEREOF, Ground Lessee, Operating Lessee and Assignee have executed this Assignment as of  
\_\_\_\_\_, 20\_\_\_.

---

**SELLER:**  
**GROUND LESSEE:**

---

By:  
Name:  
Title:

**OPERATING LESSEE:**

---

By:  
Name:  
Title:

**ASSIGNEE:**

---

By:  
Name:  
Title:

**EXHIBIT F**

**FORM OF ASSIGNMENT OF OCCUPANCY AGREEMENTS**

**ASSIGNMENT OF OCCUPANCY AGREEMENTS**

For Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, \_\_\_\_\_ ("Ground Lessee") and \_\_\_\_\_ ("Operating Lessee"), and together with Ground Lessee, "Seller"), each hereby assigns to \_\_\_\_\_ ("Assignee") all of its or their respective right, title and interest in and to the Occupancy Agreements, as defined in that certain Agreement of Purchase and Sale dated \_\_\_\_\_, 20\_\_\_\_ by and between Seller and Purchaser (the "Agreement"). Assignee hereby assumes and agrees to perform all of the obligations of Seller under the Occupancy Agreements to the extent any such obligations accrue and are applicable to periods from and after the date hereof or which accrue prior to the date hereof for which Assignee received a credit on the closing statement of even date herewith between the parties (or pursuant to any post-closing adjustment thereof).

If any litigation between Seller and Assignee arises out of the obligations of the parties under this Assignment of Occupancy Agreements or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's costs and expenses of such litigation including, without limitation, reasonable attorneys' fees. The provisions of Section 10.12 of the Agreement shall apply, *mutatis mutandis*, to this Assignment and Assumption Agreement.

This Assignment of Occupancy Agreements may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

IN WITNESS WHEREOF, Seller and Assignee have executed this Assignment of Occupancy Agreements as of  
\_\_\_\_\_, 20\_\_\_\_.

**SELLER:**

**GROUND LESSEE:**

\_\_\_\_\_  
By:  
Name:  
Title:

**OPERATING LESSEE:**

\_\_\_\_\_  
By:  
Name:  
Title:

**ASSIGNEE:**

\_\_\_\_\_  
By:  
Name:  
Title:

**EXHIBIT G**

**FORM OF FIRPTA CERTIFICATE**

**CERTIFICATE OF NON-FOREIGN STATUS**

TO: \_\_\_\_\_

FROM: \_\_\_\_\_ ("Seller")

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by Seller, the undersigned hereby certifies the following on behalf of Seller:

- (a) Seller is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
- (b) Seller's U.S. employer identification number is \_\_\_\_\_; and
- (c) Seller's office address is: c/o Braemar Hotel & Resorts Inc., 14185 Dallas Parkway, Suite 1100, Dallas, Texas.

Seller understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury, I declare that I have examined this certification, and it is true, correct, and complete; and I further declare that I have authority to sign this document on behalf of Seller.

**SELLER:**

\_\_\_\_\_  
By:  
Name:  
Title:

Date of Execution:

**EXHIBIT H**

**FORM OF ASSIGNMENT AND ASSUMPTION OF MANAGEMENT AGREEMENT**

**ASSIGNMENT AND ASSUMPTION OF HOTEL MANAGEMENT AGREEMENT**

**ASSIGNMENT AND ASSUMPTION OF HOTEL MANAGEMENT AGREEMENT** (this “**Agreement**”) made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024, from CHH TORREY PINES TENANT CORP., a Delaware corporation (“**Assignor**”) to JRK TORREY PINES HOTEL OWNER LLC, a Delaware limited liability company (“**Assignee**”) and acknowledged and agreed to by HILTON MANAGEMENT LLC, a Delaware limited liability company (“**Manager**”).

**RECITALS**

A. Assignor is party to that certain Management Agreement, dated as of December 17, 2003, by and between Assignor, as owner and Hilton Hotels Corporation, a Delaware corporation, as initial manager (“**Initial Manager**”), as amended by that certain Amendment to Management Agreements dated as of April 11, 2007, as assigned by Initial Manager to Manager by Agreement of Assignment of Management Agreement dated as of October 24, 2007, as supplemented by that certain Notice of Extension sent by Manager to Assignor dated June 8, 2011, and further amended by that certain Amendment to Management Agreement dated as of July 18, 2016, and further supplemented by a Mandatory Guest Fees Application dated February 7, 2020 delivered by Assignor to Manager, as further amended by Side Letter relating to the Capital Renewals Reserve dated May 18, 2020, as further supplemented by a Mandatory Guest Fees Application dated August 11, 2021 delivered by Assignor to Manager, as further supplemented by a Mandatory Guest Fees Application dated May 25, 2023 delivered by Assignor to Manager, as further supplemented by that certain Notice of Extension sent by Manager to Assignor dated September 7, 2022 (collectively, the “**Contract**”), relating to the real property located at 10950 N Torrey Pines Road, La Jolla, CA 92037 and commonly known as the Hilton La Jolla Torrey Pines (the “**Hotel**”).

B. Pursuant to that certain Purchase and Sale Agreement, dated as of May \_\_, 2024 (the “**Agreement**”) between Assignor and CHH Torrey Pines Hotel Partners, LP, a Delaware partnership, collectively, as seller (“**Seller**”), and Assignee, as purchaser, Seller is selling the Property (as such term is more particularly described in the Agreement) to Assignee.

C. In connection with the sale of the Hotel to Assignee, Assignor has agreed to assign the Contract to Assignee. Assignee has agreed to accept such assignment and to assume Assignor’s obligations under the Contract on the terms and conditions set forth below.

D. Assignor desires to assign its interest in the Contract to Assignee, and Assignee wishes to assume Assignor’s interest in the Contract from Assignor, all on the terms and conditions set forth herein.

## AGREEMENT

**NOW, THEREFORE**, in consideration Ten Dollars (\$10.00), the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

**1 . Assignment of Contract.** Assignor hereby assigns, grants, transfers and conveys to Assignee all of Assignor's right, title and interest in, to and under the Contract.

**2. Assumption of Contract.** Assignee hereby accepts all of Assignor's right, title and interest in, to and under the Contract, agrees to be bound by the Contract, and assumes all duties, obligations and liabilities of Assignor accruing under or with respect to the Contract accruing from and after the Effective Date; provided, that as between Manager and Assignee, from and after the Effective Date, Assignee shall be deemed to have assumed, and shall be responsible for, all duties, obligations and liabilities of "Owner" accruing under or with respect to the Contract irrespective of the date on which such duties, obligations and liabilities accrued.

**3 . Binding Effect; Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, beneficiaries, successors, agents, employees, assigns and other representatives.

**4 . Representations.** Each of the parties hereto represents and warrants that it has the full power, authority and right to execute and deliver this Agreement. Assignee represents and warrants that, as of the date hereof, it is the sole owner of the Hotel and its contents and the sole owner of the fee title to the land on which the Hotel is located.

**5 . Miscellaneous.** Capitalized terms used but not defined herein shall have the meanings set forth in the Contract. This Agreement constitutes the entire agreement between the parties with respect to the matters addressed herein. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

[Remainder of page intentionally left blank]

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**IN WITNESS WHEREOF**, Assignor and Assignee have executed this instrument as of the date first above written.

**ASSIGNOR:**

**CHH TORREY PINES TENANT CORP.,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name:

Title:

[Remainder of Page Intentionally Left Blank; Assignee's Signature Page Follows]

[Signature Page to Assignment and Assumption of Hotel Management Agreement]

**ASSIGNEE:**

**JRK TORREY PINES HOTEL OWNER LLC**, a Delaware limited liability company

By: \_\_\_\_\_

Name:

Title:

[Remainder of Page Intentionally Left Blank; Manager's Signature Page Follows]

[Signature Page to Assignment and Assumption of Hotel Management Agreement]

**MANAGER:**

**HILTON MANAGEMENT LLC**, a Delaware limited liability company

By: Hilton Domestic Operating Company Inc., as "Operator"

By: \_\_\_\_\_  
Name: Dianne Jaskulske  
Title: Vice President

[End of Signatures]

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**EXHIBIT I**

**FORM OF OWNER'S AFFIDAVIT**

**TITLE AFFIDAVIT**

dated as of \_\_\_\_/\_\_\_\_/23

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**Seller:**

\_\_\_\_\_, a Delaware limited liability company

**Title Insurer:**

Chicago Title Insurance Company ("CTIC")

**CTIC-NY-Master #:**

**Commitment #:**

**Premises, as legally described in respective Commitment:**

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**Certifications:**

The undersigned, solely in his capacity as \_\_\_\_\_ of \_\_\_\_\_, a Delaware limited liability company ("Owner"), hereby certifies the following to Title Insurer (as to its respective estate and/or interest in the Premises):

**Mechanics Liens:**

All labor, services or materials rendered or furnished within the last 180 days with regard to the Premises or with regard to the construction or repair of any building or improvements on the Premises have been completed and paid for in full or will be paid by Owner in the ordinary course of business when due and payable.

**Possession:**

To the actual knowledge of the undersigned:

The Owner's possession of the Premises has been peaceable and undisturbed; and

The Owner's title to the Premises has never been disputed or questioned.

**Unrecorded Easements:**

To the actual knowledge of the undersigned:

There are no easements or claims of easements not shown by the public records.

**Tenants/Parties in Possession:**

There are no tenants or other parties who are in possession or have the right to be in possession of said Premises other than tenants, having rights as tenants only, none of which have an option to purchase the Premises ("OTP"), right of first refusal to purchase the Premises ("ROFR") or right of first offer to purchase the Premises ("ROFO").

**Options to purchase or rights of first refusal:**

The Owner has not granted (and has no knowledge of) any unrecorded outstanding OTP, ROFR or ROFO affecting the Premises.

**Taxes/Assessments:**

All taxes, assessments, water rents and/or charges, sewer rents and/or charges, sewer hook-up charges, electricity, fire service, gas charges, common charges (i.e. condominium or association charges or dues) and other municipal charges that would constitute a lien and be currently due and payable have been (or will be) duly paid by the Owner in the ordinary course of business.

**Pending Contracts/Agreements:**

But for the instant transaction, there are no pending contracts or agreements for the sale, disposition or finance of all or part of the Premises.

**Broker:**

The Owner has not entered into any agreement with any real estate broker for the payment of a commission or similar fee relating to the purchase, sale or lease of the Premises. **[CONFIRM BROKER INFORMATION FOR SALES]**

**Covenants & Restrictions:**

To the actual knowledge of the undersigned:

The Owner has received no written notice of past or present violations of any effective covenants, conditions or restrictions set forth in the Commitment (the "CC&Rs") which have not been cured; and

Notwithstanding:

Any charge or assessment provided for in any of the CC&Rs will be duly paid in the ordinary course of business.

**Bankruptcy:**

No proceedings in bankruptcy or receivership have been instituted by or against the Owner (or its constituent entities) which are now pending, nor has the undersigned (or its constituent entities) made any assignment for the benefit of creditors which is in effect as to said Premises.

**Mortgages, Liens or Judgments:**

There are no mortgages, liens or judgments against the Premises or owner except those shown in the Commitment(s) or set up for payment on the Settlement Statement.

**Further Assurances:**

The Owner hereby undertakes and agrees to fully cooperate with Title Insurer in correcting any errors in the execution and acknowledgment of the Insured Instrument(s).

**Counterparts:**

This document may be executed in counterparts.

**Inducement and Indemnification:**

The undersigned provides this document to induce Title Insurer to insure title to said Premises well knowing that it will do so only in complete reliance upon the matters asserted hereinabove and further, will indemnify and hold Title Insurer harmless against any loss or damage sustained as a result of any inaccuracy in the matters asserted hereinabove.

SEE ANNEXED SIGNATURE PAGE

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SIGNATURE PAGE

By: \_\_\_\_\_  
Name:  
Title:  
\_\_\_\_\_

Subscribed and sworn to on \_\_\_\_/\_\_\_\_/2024

\_\_\_\_\_  
Notary Public

**EXHIBIT J**

**FORM OF SELLER'S CLOSING CERTIFICATE**

**SELLER'S CLOSING CERTIFICATE**

The undersigned certify to \_\_\_\_\_, a \_\_\_\_\_ ("Purchaser") that except as set forth on Exhibit A attached hereto, the representations and warranties of the undersigned contained in Article III of that certain Agreement of Purchase and Sale, dated as of \_\_\_\_\_, 2024, between the undersigned and Purchaser (as assigned, amended, or modified from time to time, the "Purchase Agreement"), are true and correct in all material respects as of the date hereof.

This Seller Closing Certificate is made subject to the limitations on knowledge, scope, liability and survival, and other matters regarding Seller's representations and warranties, as set forth in the Purchase Agreement, including, without limitation, Section 10.12 thereof.

*[Signature page on next page]*

Exhibit J - 1

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IN WITNESS WHEREOF, the undersigned has executed this Seller Closing Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

SELLER:

GROUND LESSEE

\_\_\_\_\_  
By: \_\_\_\_\_

OPERATING LESSEE

\_\_\_\_\_  
By: \_\_\_\_\_

Exhibit J - 2

Exhibit A

Representation and Warranty Updates

Exhibit J - 3

**EXHIBIT K**

**FORM OF PURCHASER'S CLOSING CERTIFICATE**

**PURCHASER CLOSING CERTIFICATE**

The undersigned hereby certify to \_\_\_\_\_, a \_\_\_\_\_ and \_\_\_\_\_, a \_\_\_\_\_ (collectively, "Seller"), that except as set forth on Exhibit A attached hereto, the representations and warranties of the undersigned contained in Article IV of that certain Agreement of Purchase and Sale, dated as of \_\_\_\_\_, 2024, between the undersigned and Seller (as assigned, amended, or modified from time to time, the "Purchase Agreement"), are true and correct in all material respects as of the date hereof.

This Purchaser Closing Certificate is made subject to the limitations on knowledge, scope, liability and survival, and other matters regarding Purchaser's representations and warranties, as set forth in the Purchase Agreement, including, without limitation, Section 10.12 thereof.

*[Signature page on next page]*

Exhibit K - 1

IN WITNESS WHEREOF, the undersigned has executed this Purchaser Closing Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**PURCHASER:**

\_\_\_\_\_,  
a \_\_\_\_\_

By:  
Printed Name:  
Title:

Exhibit K - 2

Exhibit A

Representation and Warranty Updates

Exhibit K - 3

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**SCHEDULE 1**

**CLOSING COST ALLOCATIONS**

Ground Lease Assignment Recording Fee	S
Transfer and Sales Tax for Property	S
Updated Survey	P
ALTA Title Insurance (Standard Coverage)	S
ALTA Title Insurance (Extended Coverage)	P
Endorsements or Deletions to Title Policy (excluding those related to Monetary Title Encumbrances)	P
Endorsements or Deletions to Title Policy to remove or cure Monetary Title Encumbrances	S
Mortgagee Policy	P
Ground Lease Transfer Tax	S
Mortgage Tax	P
Escrow Fees	P/S
Title Company Closing Services Fees	P/S

**LEGEND:**

P = To be paid by Purchaser

S = To be paid by Seller

P/S = To be paid equally by Seller and Purchaser

N/A = Not applicable

Schedule 1 - 1

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**SCHEDULE 3.8**

**Occupancy Agreements**

1. Hilton Hotels Corporation Lease Agreement for Hazelwood Enterprises, Inc., at the Hilton La Jolla, Torrey Pines, dated as of September 29, 2005, between CHH Torrey Pines Tenant Corporation, a Delaware corporation, as landlord, and Hazelwood Enterprises, Inc., an Arizona corporation, as tenant
  
2. Those certain Occupancy Agreements described below:

<b>Tenant</b>	<b>Services Provided by Tenant</b>
Verizon	Antenna on Roof
TravelMart	Gift Shop
AT&T	Antenna on Roof
Inspire	AV

Schedule 3.8 – Page 1

**SCHEDULE 3.13**

**Litigation**

1. Case No. 37-2023-00037511-CU-PO-CTL in the Superior Court of the State of California, San Diego County filed August 22, 2023 by Brice Neiman
2. Case No. 37-2020-00024054-CU-PO-CTL in the Superior Court of the State of California, San Diego County filed July 9, 2020 by Miesha Barnes
3. Case No. 37-2022-00019023 in the Superior Court of the State of California, San Diego County filed May 19, 2022 by Narisca Dobrescu
4. Notice of Labor Code Violations on behalf of Morresia Byfield dated April 17, 2024.

Schedule 3.13 – Page 1

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**SCHEDULE 3.15**

**Taxes**

Seller has a pending real estate tax assessment appeal for tax year 2021.

Seller has a pending real estate tax assessment appeal for tax year 2022.

Seller has a pending real estate tax assessment appeal for tax year 2023.

Seller recently resolved a personal property assessment appeal for tax year 2022 but is awaiting receipt of the refund.

Seller has a pending personal property tax assessment appeal for tax year 2023.

Schedule 3.15 – Page 1

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## SCHEDULE 3.16

### Operating Agreements; Leased Property Agreements

1. Hilton Hotels Corporation Lease Agreement for Hazelwood Enterprises, Inc., at the Hilton La Jolla, Torrey Pines, dated as of September 29, 2005, between Operating Lessee, as landlord, and Hazelwood Enterprises, Inc., an Arizona corporation, as tenant.
2. Services Agreement dated as of October 23, 2019, by and between Operating Lessee and Selig Parking, Inc., a Georgia corporation, as amended by that certain First Amendment to Services Agreement dated as of March 2022 and effective as of March 1, 2022.
3. Wireless Communications License Agreement dated June 26, 2001, as amended by that certain First Amendment to Wireless Communications License Agreement dated as of September 13, 2010, and as further amended by that certain Second Amendment to Wireless Communications License Agreement dated as of June 29, 2016, as amended by that certain Wireless Communications License Agreement dated as of July 15, 2021, each by and between Operating Lessee and Cellco Partnership, a Delaware general partnership (as successor-in-interest to Verizon Wireless (VAW) LLC.
4. Participating Hotel Concession Agreement dated as of October 18, 2023, by and between Operating Lessee and Inspire Event Technologies, LLC.
5. Those certain Operating Agreements and Leased Property Agreements described below:

<b>Contract type</b>	<b>Name</b>	<b>Description of Goods / Service</b>
Service	Augustin Janitorial	Contract Labor Rooms and F&B
Service	Augustin Janitorial	Night Cleaners
Other	AAA Parking	Parking Garage/Valet Parking
Service	McHenry Plantation	Interior Plants
Service	Vivo Landscaping	Exterior Landscaping
Service	ChemSearch	Water treatment
Service	Affordable Grease	Grease pump
Contractor	Bergelectric	Fire Alarm Testing
Service	Simplex Grinell	Fire Alarm Systems
Service	Rentokil	Pest Control
Service	Kone	Escalator/Elevators

Schedule 3.16 – Page 1

Service	LNDRY	Dry Cleaning
Contractor	WorldVue	Cable
Service	San Diego Medical Waste	Medical Waste Removal
Agency	Party Staff	Banquet servers/contract labor
Agency	Supreme Security	Security contract services
Contractor	Pacific Rim Repair	Monthly PM boilers
Service	Ecolab	Pool service
Service	Ecolab	Prep-N-Print machine in the Kitchen
Service	Cintas	AED
Service	Waste Management	waste removal
Service	Aqua Recycle	water treatment
Service	Brinks	armored car service
Agency	San Diego Golf	golf reservations
Agency	Zybra LLC	6 Electric bikes rental
Service	Homeyer	water testing
Supplier	FPG Frontline	Rooms upsells
Supplier	Uniqest	Digital screens meeting rooms
Supplier	Amadeus	HotSos
Service	United Security	Security contract services
Service	Advantage Workforce Services LLC	Leased labor services
Service	Sonifi Solutions	Direct TV
Service	Pre OPCO, LLC (PURE Solutions)	Guest Room Purification
Service	American Consumer Financial Network	ATM

Schedule 3.16 – Page 2

**SCHEDULE 3.17**

**Authorization**

1. City of San Diego Consent to License Agreement (Transmit Carrier) by and between The City of San Diego and Operating Lessee, dated as of April 28, 2014.
  
2. Those certain Authorizations described below:

<b>Authority</b>	<b>Permit #</b>	<b>Reason for Permit</b>
County of SD	DEH2002-FFPP-200280	Health Permit
County of SD	DEH2002-FFPP-200281	Health Permit
County of SD	DEH2002-FFPP-200282	Health Permit
County of SD	DEH2013-FFPP-002659	Health Permit
County of SD	DEH2002-FFPP-200351	Health Permit
County of SD	DEH2013-FFPP-002658	Health Permit
County of SD	6220	Weights & Measures
County of SD	FA04-314469	Food Complex
County of SD	DEH2002-FRENT-314469	Entertainment Complex
County of SD	DEH2002-HUPFP-129463	Unified Program Facility Permit
City of San Diego	204	FEWD
BOE	FH 100-400456	Seller's Permit
State of CA DOSH	Serial No. A029562-89 NB#/SER. #78787	Air Pressure
County of SD	APCD2022-PTO-004257	Air Pollution Control
State of CA DOSH	Serial No. B031943-17 NB/SER #18220	Boiler
BOE	LRQET91254651	Cigarette & Tobacco Products
County of SD	DEH2002-FPOOL-302355	Pool
San Diego Police Depart		Alarms
State of CA DOSH	Conveyance No. 093369	Conveyance
City of San Diego	B204198-01	Certificate of Occupancy
City of San Diego	B000093-89	

LIMITED WAIVER UNDER ADVISORY AGREEMENT

This LIMITED WAIVER UNDER ADVISORY AGREEMENT (this "Waiver Agreement") is entered into as of August 8, 2024, by and among **BRAEMAR HOTELS & RESORTS INC.** (the "Company"), **BRAEMAR HOSPITALITY LIMITED PARTNERSHIP** (the "Operating Partnership"), **BRAEMAR TRS CORPORATION** ("TRS"), **ASHFORD INC.** ("AINC"), and **ASHFORD HOSPITALITY ADVISORS LLC** ("Ashford LLC" and, together with AINC, the "Advisor").

RECITALS:

A. The parties hereto are parties to that certain Fifth Amended and Restated Advisory Agreement, dated as of April 23, 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Advisory Agreement").

B. The Company has a mortgage loan maturing in June 2025 with an outstanding principal balance of approximately \$293 million (the "Loan") secured by four hotel properties: (i) The Notary Hotel; (ii) The Clancy; (iii) Sofitel Chicago Magnificent Mile; and (iv) Marriott Seattle Waterfront (each a "Hotel Property" and collectively, the "Hotel Properties").

C. Any sale or disposition of one or more of the Hotel Properties may constitute a Company Change of Control under the Advisory Agreement permitting the Advisor to terminate the Advisory Agreement pursuant to Section 12.4(a) thereof resulting in the Termination Fee becoming due and payable to the Advisor.

D. The Company, the Operating Partnership, TRS and the Advisor believe it is in their respective best interests to waive the occurrence of a Company Change of Control, and the Advisor's right to terminate the Advisory Agreement as a result thereof, resulting from the disposition of the Hotel Properties as a result of a mortgage foreclosure, deed-in-lieu of mortgage foreclosure, mezzanine loan foreclosure or an assignment in-lieu of a mezzanine loan foreclosure following the failure of the Company to pay, upon the maturity of the Loan, all amounts due and payable thereunder (such failure to pay, a "Maturity Default").

AGREEMENT:

In consideration of the premises and mutual covenants herein and for other valuable consideration, the parties hereto agree as follows:

Section 1. Definitions. Capitalized terms used in this Waiver Agreement but not defined have the meaning provided in the Advisory Agreement.

Section 2. Limited Waiver.

(a) From the date hereof until the earlier of (i) November 15, 2025 and (ii) the refinancing of the Loan (the "Loan Outside Date"), the Advisor hereby waives the operation of Section 12.4(a) of the Advisory Agreement that would permit the Advisor to terminate the Advisory Agreement occurring solely as a result from the sale or disposition of one or more of the Hotel Properties as a result of a mortgage foreclosure, deed-in-lieu of mortgage foreclosure, mezzanine loan foreclosure or an assignment in-lieu of a mezzanine loan foreclosure following a Maturity Default (the "Limited Waiver"). From the date hereof until 11:59 pm Central Time on November 14, 2025, so long as the Company is diligently and in good faith pursuing a modification, extension or refinancing of the Hotel Properties and no Maturity

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Default has occurred, the Company may request the Advisor agree to amend this Waiver Agreement to extend the Loan Outside Date for a period not to exceed ninety (90) days from November 15, 2025 and if the Advisor agrees to such amendment, the Advisor shall not be entitled to any further consideration in respect thereof. For the avoidance of doubt: (i) the Limited Waiver shall not apply with respect to any Hotel Properties that are sold or disposed of for any reason other than as a result of a mortgage foreclosure, deed-in-lieu of mortgage foreclosure, mezzanine loan foreclosure or an assignment in-lieu of a mezzanine loan foreclosure in each case following a Maturity Default; (ii) if the Hotel Properties are sold or disposed of for any reason after the Loan Outside Date, the result of which, alone or together with other events, would constitute a Company Change of Control under the Advisory Agreement, the Advisor will have the right to terminate the Advisory Agreement; (iii) on or after the Loan Outside Date, any Hotel Property sold or disposed as a result of a mortgage foreclosure, deed-in-lieu of mortgage foreclosure, mezzanine loan foreclosure or an assignment in-lieu of a mezzanine loan foreclosure or otherwise prior to the Loan Outside Date shall count for the purposes of the Gross Asset Value calculations set forth in the definition of "Company Change of Control" in the Advisory Agreement; (iv) in the event a Company Change of Control has not occurred under the Advisory Agreement as a result of the Limited Waiver provided herein (but a Company Change of Control would have occurred prior to the Loan Outside Date in the absence of the Limited Waiver provided herein), on the Loan Outside Date, a Company Change of Control shall be deemed to have occurred under the Advisory Agreement as of the date it would have occurred in the absence of the Limited Waiver; and (v) in the event the members of the board of directors of the Company change such that the members who constitute the board of directors on the date hereof (the "Company Incumbent Board") no longer constitute at least a majority of the board of directors of the Company (other than those whose election to the board of directors is approved or recommended to stockholders of the Company by a vote of at least a majority of the Company Incumbent Board), the Limited Waiver provided by the Advisor herein shall be null and void *ab initio* but the consideration provided to the Advisor by the Company pursuant to Section 2(b) below shall remain in force.

(a) In exchange for the Limited Waiver and the other agreements provided by Advisor herein, the Company hereby agrees to pay the Advisor an amount equal to the Advisors' obligation under that certain Amended and Restated Employment Agreement among the Advisor and Richard J. Stockton, effective as of April 1, 2019, as amended (the "Stockton Employment Agreement") to pay Richard J. Stockton a multiple of his Base Salary (as defined in the Stockton Employment Agreement) that becomes payable by the Advisor to Richard J. Stockton as a result of the occurrence of: (i) a Change of Control (as defined in the Stockton Employment Agreement) of the Company and termination of Richard J. Stockton's employment by the Advisor without Cause (or not renewed by the Advisor) or by the Executive for any reason on or before the one (1)-year anniversary of the effective date of the Change of Control (a "CoC Trigger") or (ii) termination of Richard J. Stockton's employment thereunder by the Advisor or Richard J. Stockton for any reason other than a CoC Trigger (the "Base Salary Severance Obligation"). Upon the occurrence of (i) or (ii) above and receipt by the Company of written notice from the Advisor thereof, the Company shall deliver to the Advisor within forty-eight (48) hours an amount in immediately available U.S. funds equal to the Base Salary Severance Obligation as determined by the Advisor in its sole discretion. Notwithstanding anything in this Section 2(b) to the contrary, in the event Richard J. Stockton and the Advisor agree, subsequent to the date hereof, that the amount to be paid by Advisors or the terms of such payment to Richard J. Stockton in respect of the Base Salary Severance Obligation shall differ in any material respect from the obligations set forth herein or the terms of the Stockton Employment Agreement as of the date hereof, either of which would result in the Company incurring any greater obligation under this Section 2(b) than on the date hereof, then any such change and result therefrom shall not be the obligation of the Company unless the independent members of the board of directors of the Company otherwise agree.

2.1 The Limited Waiver shall be effective only in the instances and for the specific purposes set forth in this Waiver Agreement and shall not be deemed to be a consent to any other transaction or matter or waiver of compliance under any circumstances not set forth herein, or a waiver of any preceding or succeeding breach of the same or any other covenant or provision of the Advisory Agreement.

Section 3. Miscellaneous.

3.1 Advisory Agreement Unaffected. Each reference to the Advisory Agreement shall hereafter be construed as a reference to the Advisory Agreement after giving effect to this Waiver Agreement. Except as herein otherwise specifically provided, all provisions of the Advisory Agreement (after giving effect to this Waiver Agreement) shall remain in full force and effect and be unaffected hereby.

3.2 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

3.3 Counterparts. This Waiver Agreement may be executed in any number of counterparts, by different parties hereto in separate counterparts and by facsimile signature or other electronic transmissions, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement.

3.4 Governing Law; Consent to Jurisdiction. The provisions of Section 23 of the Advisory Agreement shall be set forth herein *mutatis mutandis*.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

IN WITNESS WHEREOF, this Waiver Agreement has been duly executed and delivered as of the date first above written.

**BRAEMAR HOTELS & RESORTS INC.**

By: /s/ Richard Stockton  
Name: Richard Stockton  
Title: Chief Executive Officer

**BRAEMAR HOSPITALITY LIMITED PARTNERSHIP**  
By: Braemar OP General Partner LLC, its general partner

By: /s/ Deric S. Eubanks  
Name: Deric S. Eubanks  
Title: Chief Financial Officer

**BRAEMAR TRS CORPORATION**

By: /s/ Deric S. Eubanks  
Name: Deric S. Eubanks  
Title: President and Secretary

**ASHFORD HOSPITALITY ADVISORS LLC**

By: /s/ Eric Batis  
Name: Eric Batis  
Title: Chief Executive Officer

**ASHFORD INC.**

By: /s/ Alex Rose  
Name: Alex Rose

[Signature Page to Waiver Agreement]

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Title: Executive Vice President, General Counsel and Secretary

[Signature Page to Waiver Agreement]

**CERTIFICATION**

I, Richard J. Stockton, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Braemar Hotels & Resorts Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2024

/s/ RICHARD J. STOCKTON

Richard J. Stockton

President and Chief Executive Officer

**CERTIFICATION**

I, Deric S. Eubanks, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Braemar Hotels & Resorts Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2024

/s/ DERIC S. EUBANKS

Deric S. Eubanks  
Chief Financial Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Braemar Hotels & Resorts Inc. (the "Company") on Form 10-Q for the quarterly period ended June 30, 2024, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Richard J. Stockton, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 8, 2024

/s/ RICHARD J. STOCKTON

Richard J. Stockton

President and Chief Executive Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Braemar Hotels & Resorts Inc. (the "Company") on Form 10-Q for the quarterly period ended June 30, 2024, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Deric S. Eubanks, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 8, 2024

/s/ DERIC S. EUBANKS

Deric S. Eubanks

Chief Financial Officer